



## CITY OF STONECREST, GEORGIA

*Honorable Mayor Jason Lary, Sr.*

*Council Member Jimmy Clanton, Jr. – District 1    Council Member Rob Turner - District 2*

*Council Member Jazzmin Cobble – District 3    Council Member George Turner - District 4*

*Council Member Tammy Grimes – District 5*

### CITY COUNCIL VIRTUAL WORK SESSION - *AGENDA*

Monday October 11, 2021, at 6:00 P.M.

Citizen Access: [Stonecrest YouTube Live Channel](#)

**I. CALL TO ORDER:** George Turner, Mayor Pro Tem

**II. ROLL CALL:** Tomika Lewis, Acting City Clerk

**III. AGENDA DISCUSSION ITEMS:**

- a. **Presentation** - Introduction of the Acting City Clerk, Tomika Lewis – *Jim Nichols*
- b. **Presentation** – Holiday Council Meeting Schedule – *Jim Nichols*
- c. **Presentation** – RZ-21-003, 3177 Panola Rd and 5207 Thompson Mill Rd – *Jim Summerbell*
- d. **Presentation** – RZ-21-005, 6301 Browns Mill Road – *Jim Summerbell*
- e. **Presentation** – TMOD-21-007, Private Permitting Review – *Jim Summerbell*
- f. **Presentation** – TMOD-21-008, Administration – *Jim Summerbell*
- g. **Update** – FY21 Financial Update – *Gia Scruggs*
- h. **Presentation** – Discussion of Council Priorities – *Janice Allen Jackson*

**IV. EXECUTIVE SESSION:**

*(When an executive session is required, one will be called for the following issues: 1) Personnel, 2) Litigation, 3) Real Estate)*

**V. ADJOURNMENT**

*Americans with Disabilities Act*

*The City of Stonecrest does not discriminate on the basis of disability in its programs, services, activities and employment practices.*

*If you need auxiliary aids and services for effective communication (such as a sign language interpreter, an assistive listening device or print material in digital format) or reasonable modification to programs, services or activities contact the ADA Coordinator, Sonya Isom, as soon as possible, preferably 2 days before the activity or event.*



## CITY COUNCIL AGENDA ITEM

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**SUBJECT: Holiday Council Meeting Schedule**

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**AGENDA SECTION:** *(check all that apply)*

**PRESENTATION**     **PUBLIC HEARING**     **CONSENT AGENDA**     **OLD BUSINESS**  
 **NEW BUSINESS**     **OTHER, PLEASE STATE:**

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**CATEGORY:** *(check all that apply)*

**ORDINANCE**    **RESOLUTION**    **CONTRACT**    **POLICY**    **STATUS REPORT**  
 **OTHER, PLEASE STATE:** Revised Council Meeting Schedule

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**ACTION REQUESTED:**    **DECISION**    **DISCUSSION**,    **REVIEW**, or    **UPDATE ONLY**

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**Previously Heard Date(s):** NA

**Current Work Session:** Wednesday, August 11, 2021

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**SUBMITTED BY:** Jim Nichols, Deputy City Manager

**PRESENTER:** Jim Nichols

**PURPOSE:** Seeking feedback from the Mayor and Council on proposed revisions to the upcoming Council meeting schedule in light of holidays may present conflicts.

**FACTS:** There are several holidays approaching that are recognized by the City of Stonecrest including Veterans Day (Nov 11), Thanksgiving (Nov 25), day after Thanksgiving (Nov 26), Christmas Eve (Dec 24), Christmas (Dec 25 but observed on Dec 27), and New Year's Eve (Dec 31). City Hall is closed on these holidays as are many local businesses and service providers. In light of these upcoming holidays as well as the vacations that may be associated with them, we wish to offer the following observations and suggestions. There is a Council meeting scheduled on the Monday of Thanksgiving week. This does not appear to be a conflict unless a majority of Council intend to be out of town and unavailable during that week. There is a Council meeting scheduled on Dec 27 but since that is when Christmas is observed due to the holiday falling on a weekend, the meeting is currently moved to Tuesday, Dec 28. We recommend that the Council consider moving this meeting 1 week earlier, to Monday Dec 20. The current meeting date falls the day after a holiday and only 3 days before the next holiday. It is likely that the Council and staff



## CITY COUNCIL AGENDA ITEM

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will be preoccupied with family, friends and holiday festivities during this time. We welcome your thoughts on the schedule suggestions noted.

**OPTIONS:** Discussion only



## CITY COUNCIL AGENDA ITEM

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**SUBJECT: RZ-21-003, 3177 Panola Rd and 5207 Thompson Mill Rd**

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**AGENDA SECTION:** *(check all that apply)*

**PRESENTATION**     **PUBLIC HEARING**     **CONSENT AGENDA**     **OLD BUSINESS**  
 **NEW BUSINESS**     **OTHER, PLEASE STATE:** Click or tap here to enter text.

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**CATEGORY:** *(check all that apply)*

**ORDINANCE**     **RESOLUTION**     **CONTRACT**     **POLICY**     **STATUS REPORT**  
 **OTHER, PLEASE STATE: Rezoning**

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**ACTION REQUESTED:**     **DECISION**     **DISCUSSION ONLY**

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**Current Work Session: Monday, October 11, 2021**

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**SUBMITTED BY:** Jim Summerbell, AICP – Planning & Zoning Director

**PRESENTER: Jim Summerbell**

**PURPOSE:** Update City Council on action taken on RZ-21-003 at 3177 Panola Rd and 5207 Thompson Mill Road by the Planning Commission on September 7, 2021, in preparation for October 25, 2021, Regular City Council Meeting when the item will be presented as an action item.

**FACTS:** Apex Land Company is requesting to rezone from R-100 (Residential Med Lot) District and NS (Neighborhood Shopping) to RSM (Small Lot Residential) for the development of a 65-unit townhome community. The applicant is APEX Land Company, LLC, represented by Battle Law, P.C. The subject property was rezoned to R-100 and NS in 2005 by DeKalb County with conditions. The Planning Commission recommended approval of the rezoning to RSM with conditions on a vote of 4 to 1.

**OPTIONS:** N/A, Discussion Only

**RECOMMENDED ACTION:** None at this time.

**ATTACHMENTS:**

- (1) Attachment 1 - RZ-21-003 APEX Land Staff Report
- (2) Attachment 2 - Rezoning Application amendment submitted on August 27, 2021 with updated letter of intent, and original zoning application dated June 2, 2021
- (3) Attachment 3 - Technical memorandums concerning traffic impacts
- (4) Attachment 4 - RZ-21-003 Public Participation Plan





## **CITY COUNCIL AGENDA ITEM**

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(5) Attachment 5 - Zoning Agreement between Panola Mills HOA and the property owners of subject property, which includes the conditions of zoning placed on the property by DeKalb county in 2008 (Z-08-15000)



## CITY COUNCIL AGENDA ITEM

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**SUBJECT: RZ-21-003, 3177 Panola Rd and 5207 Thompson Mill Rd**

---

**AGENDA SECTION:** *(check all that apply)*

**PRESENTATION**     **PUBLIC HEARING**     **CONSENT AGENDA**     **OLD BUSINESS**  
 **NEW BUSINESS**     **OTHER, PLEASE STATE:** Click or tap here to enter text.

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**CATEGORY:** *(check all that apply)*

**ORDINANCE**     **RESOLUTION**     **CONTRACT**     **POLICY**     **STATUS REPORT**  
 **OTHER, PLEASE STATE: Rezoning**

---

**ACTION REQUESTED:**     **DECISION**     **DISCUSSION ONLY**

---

**Current Work Session: Monday, October 11, 2021**

---

**SUBMITTED BY:** Jim Summerbell, AICP – Planning & Zoning Director

**PRESENTER: Jim Summerbell**

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**FACTS:** Apex Land Company is requesting to rezone from R-100 (Residential Med Lot) District and NS (Neighborhood Shopping) to RSM (Small Lot Residential) for the development of a 65-unit townhome community. The applicant is APEX Land Company, LLC, represented by Battle Law, P.C. The subject property was rezoned to R-100 and NS in 2005 by DeKalb County with conditions. The Planning Commission recommended approval of the rezoning to RSM with conditions on a vote of 4 to 1.

**OPTIONS:** N/A, Discussion Only

**RECOMMENDED ACTION:** None at this time.

**ATTACHMENTS:**

- (1) Attachment 1 - RZ-21-003 APEX Land Staff Report
- (2) Attachment 2 - Rezoning Application amendment submitted on August 27, 2021 with updated letter of intent, and original zoning application dated June 2, 2021
- (3) Attachment 3 - Technical memorandums concerning traffic impacts
- (4) Attachment 4 - RZ-21-003 Public Participation Plan

RZ-21-003 Attachment 1: Staff Report to Planning Commission, Sept. 7, 2021



**PLANNING & ZONING STAFF REPORT**

RZ-21-003

**Planning Commission Meeting September 7, 2021**

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**GENERAL INFORMATION**

<b>Petition Number:</b>	RZ-21-003
<b>Applicant:</b>	Apex Land Company, LLC
<b>Owner:</b>	Zacharia Majed; Mohammed Al Mulki Rania; Amir Haffer
<b>Project Location:</b>	3177 Panola Rd and 5207 Thompson Mill Road, Parcel Numbers 16 022 01 245 and 16 022 01 023
<b>District:</b>	District 3 – Jazzmin Cobble
<b>Acreage:</b>	Approximately 9.56 acres
<b>Existing Zoning:</b>	R-100 (Residential Med Lot) District and NS (Neighborhood Shopping)
<b>Proposed Zoning:</b>	RSM (Small Lot Residential)
<b>Comprehensive Plan Character Area Designation</b>	Suburban
<b>Proposed Development/Request:</b>	A 65-unit townhome community
<b>Staff Recommendations:</b>	<b>Approval with conditions</b>
<b>Previous Action:</b>	<b>Planning Commission heard the case on August 8, 2021 and DEFER PETITION RZ-21-003 in hope that the applicant would reach back out to the community; hold another community meeting; and do a traffic study.</b> Chairman Hubbard made the motion, Commissioner Hollis seconded the motion. The motion was not unanimously <b>DEFERRED</b> . The vote was 04-01. The Chairman and Commissioners JW Eady, Walker, and Hollis voted for the <b>DEFERRAL</b> . Commissioner Mathis voted against the <b>DEFERRAL</b> .
<b>Subsequent Action by Applicant:</b>	At the time of this staff report preparation, the applicant has scheduled another public information meeting on the development to be held on September 1, but did not prepare a traffic study. Instead undertaking a study, the applicant reduced the scale of their development from 76 to 65 housing units.

**Aerial Map**



**Zoning Case: RZ-21-003**

**Address: 3177 Panola Road and 5207 Thompson Mill Road**

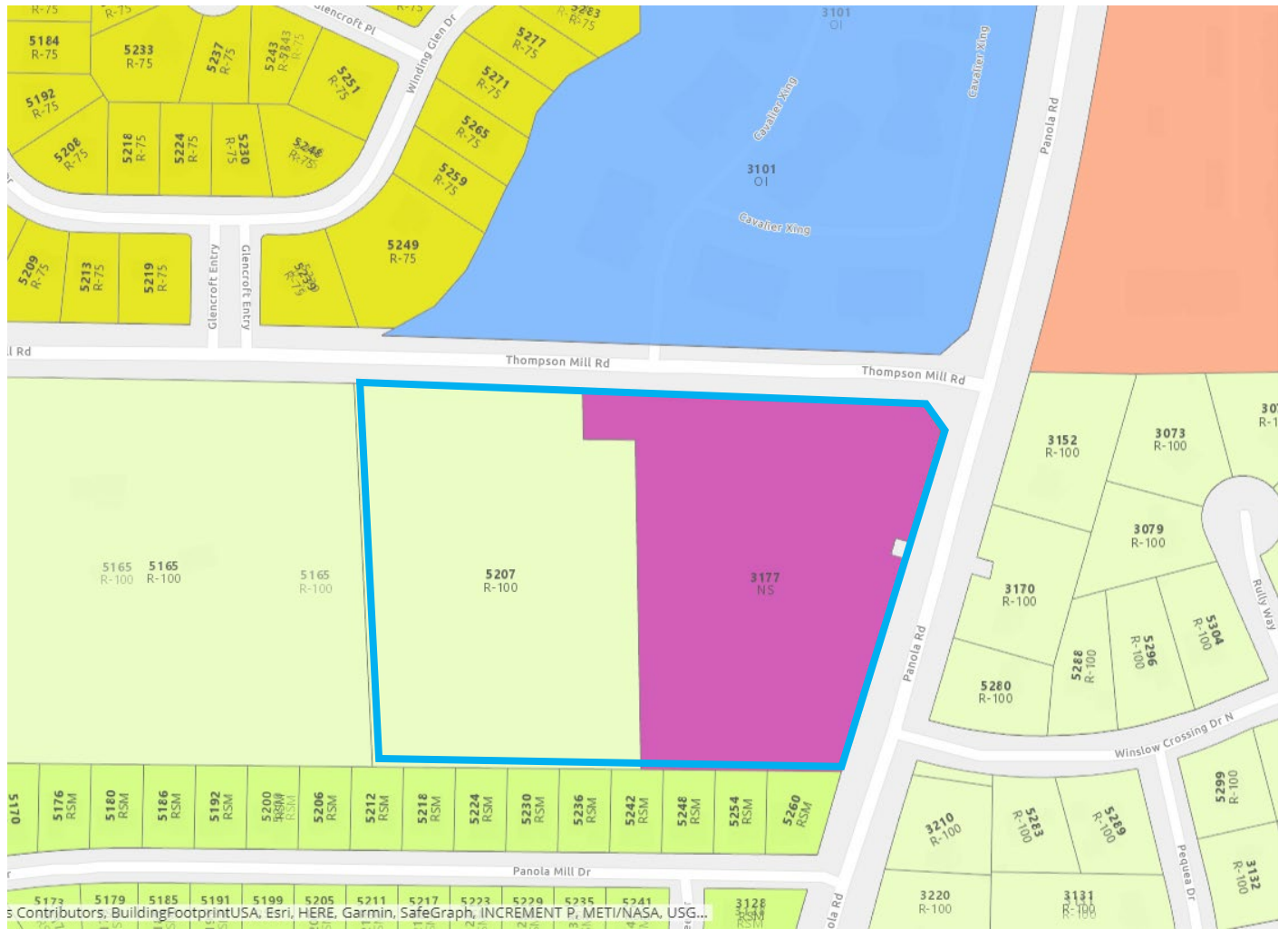




# PLANNING & ZONING STAFF REPORT

RZ-21-003

## Zoning Map



**Zoning Case: RZ-21-003**

**Current Zoning: R-100 and NS**

**Address: 3177 Panola Road and 5207 Thompson Mill Road**

**Proposed Zoning: RSM**



## PLANNING & ZONING STAFF REPORT

RZ-21-003

### PROJECT OVERVIEW

#### **Location**

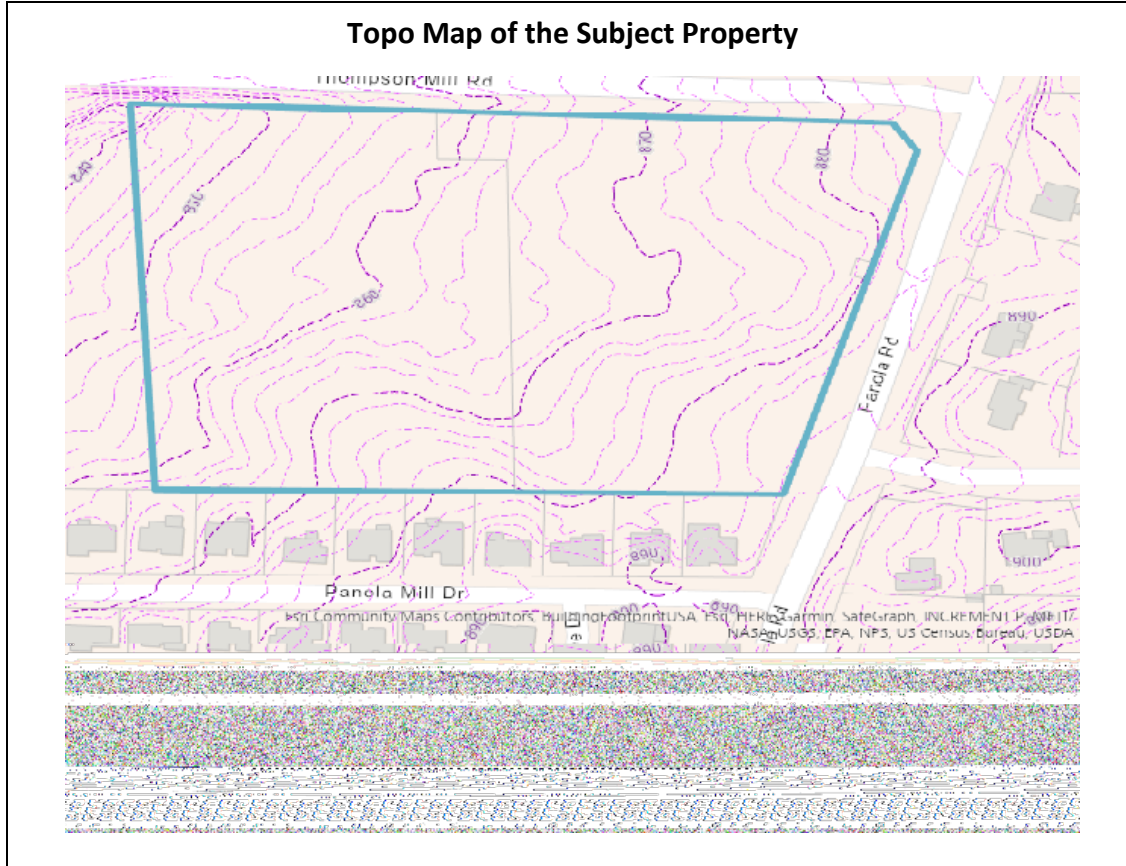
The subject property is located at 3177 Panola Road and 5207 Thompson Mill Road. The property is located at the intersection of Thompson Mill Rd and Panola Road.

The property is bounded by Thompson Mill Road to the north, a single family home to the west. Panola Mill Subdivision to the South, and Panola Road to the east. Winslow Crossing Subdivision is located across Panola Road to the east, and Cavalier @100 apartment complex is located across Thompson Mill Road to the north.

#### **Background**

Currently, the property is vacant, and zoned for single-family residential, R-100 and Neighborhood Shopping. The subject property was previously rezoned by DeKalb County in 2008, CZ-08-15000 for a 25,000 sf shopping center, see attached DeKalb County case report.

The topography of the property relatively level sloping away from Panola Road toward to stream to the west of the site. The site is currently wooded. There are no streams on the property, but a stream does traverse near the northwest corner of







**PLANNING & ZONING STAFF REPORT**

RZ-21-003

**Elevations (see attached application materials for full set of elevations.)**



FRONT ENTRY RENDERING





## PLANNING & ZONING STAFF REPORT

RZ-21-003

### **Public Participation**

The applicant did submit a public participation plan, and held multiple community meetings with the Panola Mills, Glencroft, Havenwood and Woodgrove communities via Zoom prior to August 3. These meetings did lead to scaling back of the density of original proposal for the development, see attached application materials. Following the August 3 deferral by the Planning Commission, the applicant has made plans for another public meeting on September 1, which is to be held after the preparation of this staff report. Documentation of that meeting will be posted separately and later joined to the report.

### **Traffic Analysis**

Staff has received many emails voicing concerns over the potential impact of the development, particularly concerning increased traffic congestion and safety. A trip generation report, dated 6/8/2021 and prepared by Lumin8 Transportation Technologies indicates that the traffic impact to the area for residential use would be half that if developed as currently approved for retail development. The applicant did not prepare a traffic study as requested by the Planning Commission, but as stated earlier did scale down the proposed density of the development, which would reduce any potential traffic impacts.

### **STANDARDS OF REZONING REVIEW**

*Section 7.3.4 of the Stonecrest Zoning Ordinance list eight factors to be considered in a technical review of a zoning case completed by the Planning and Zoning Department and Planning Commission. Each element is listed with staff analysis.*

#### **A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.**

The subject property is located within the Suburban character area of the Stonecrest 2038 Comprehensive Plan, as described on page 128 of the Comp Plan.

“The intent of the Suburban Neighborhood character area is to recognize those areas of the city that have developed in traditional suburban land use patterns while encouraging new development to have increased connectivity and accessibility. These areas include those developed (built out) and those under development pressures. Those areas are characterized by low pedestrian orientation, limited transit access, scattered civic buildings and curvilinear street patterns. The proposed density for areas of this type is up to 8 dwelling units per acre.”

The residential requested density is within the policy guidelines of Comp Plan.



## PLANNING & ZONING STAFF REPORT

RZ-21-003

**B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.**

As described before, the subject property is surrounded by residential uses, and proposed townhome development is more suitable to the residential character of the area than currently permitted retail development, see previous zoning map.

**C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.**

The property is currently zoned R-100 and NS, and does have reasonable economic use as currently zoned. The requested use of the property is less intensive than that as currently zoned.

**D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.**

The proposed zoning proposal is not anticipated to have a negative impact on the existing use or usability of adjacent or nearby properties. Staff believes the suggested zoning for a townhome development would complement the area better than the currently allowed use of a shopping center.

**E. Whether there are other existing or changing conditions affecting the use and development of the property, which gives supporting grounds for either approval or disapproval of the zoning proposal.**

There are no changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.

**F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.**

There are currently no historic buildings, sites, districts, or archaeological resources on the subject property.

**G. Whether the zoning proposal will result in a use that will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**

According to a trip generation report, dated 6/8/2021 and prepared by Lumin8 Transportation Technologies the traffic impact to the area for residential use would be half that if developed as currently approved for retail development. As also indicated in a memo from the City Engineer dated June 14, planned improvements to Thompson Mill Road for widening from 2 to 4 lanes and for its intersection with Panola Road will help to mitigate the negative impacts of the proposed development and a full traffic study is not required for the site, as it does not meet the 190 units requirement for such a study.

**H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.**

Environmental Site Analysis included in the application indicates no significant environmental impact. The



## PLANNING & ZONING STAFF REPORT

RZ-21-003

zoning proposal will not adversely impact the environment or surrounding natural resources. Steps are being taken to mitigate any potential stormwater runoff.

### STAFF RECOMMENDATION

The applicant meets all the criteria for approval. Therefore, staff recommends **APPROVAL** of **RZ-21-003** the following condition:

1. The future development of the site shall be for a maximum of 65 townhome units, and in general conformity with conceptual plan submitted with this rezoning application amendment prepared by Contineo Group for Apex Land Company and dated 8/27/21.
2. The roof line for each building shall be varied.
3. Exterior building materials shall comply with the Article 5 standards of the Stonecrest Zoning Ordinance. The front façade of the units shall incorporate multiple textures and materials similar to the elevations submitted to the Stonecrest Planning Department.
4. A 20ft undisturbed buffer, along with a 10ft landscape strip, shall be in place along the southern boundary line of the Subject Property.
5. Opaque privacy fencing shall be placed along or near the perimeter of the southern boundary line of the property adjacent to the Panola Mills subdivision.
6. There shall be a Mandatory Homeowners Association which shall own and maintain the common areas, and enforce the covenants placed on the townhome community.
7. The maximum height of the units shall be 2 stories or 35ft in height.
8. Prior to the issuance of any land disturbance permit, the Applicant must provide evidence of a legal mechanism under which all land to be held in common and used for greenspace purposes within the development shall be protected in perpetuity. Such legal mechanism shall include a declaration of restrictive covenants and the formation of a homeowner association, which assure in perpetuity each of the following mandatory requirements:
  - a. That all land held in open space will remain undivided and shall not be subdivided or removed from joint access or benefit in perpetuity;
  - b. That all subsequent property owners in the development will be placed on notice of this development restriction through the deed records filed with the Superior Court of DeKalb County;
  - c. That all land held as greenspace will be properly maintained and that no liability or maintenance responsibilities for the land held as greenspace shall accrue to the City of Stonecrest (the "City");
  - d. That a legal entity exists for notice of deficiencies in maintenance of the land held as greenspace, correction of these deficiencies, and assessment of liens against the properties for the cost of the correction of these deficiencies by a third party or the City;
  - e. That the legal mechanism will become effective and enforceable prior to or at the time of recording the final plat and the sale of any individual properties within the Subject Property; and
  - f. That all requirements of the legal mechanism used to comply with the regulations of this condition will be specified on the final plat to be recorded with the Clerk of Superior Court of DeKalb County.
  - g. Equal access and right of use to all greenspace by all homeowners;
  - h. Mandatory and automatic membership in the homeowners' association for all homeowners and their successors;
  - i. A fair and uniform method of assessment and collection/payment for dues, maintenance and related costs;



## PLANNING & ZONING STAFF REPORT

RZ-21-003

- j. Homeowners' association lien authority to ensure the collection of dues from all members;
  - k. Perpetual and continued maintenance and liability by the homeowners' association of land held as greenspace; and
  - l. Filing of all required covenants, declarations, and restrictions with the Clerk of the Superior Court of DeKalb County.
  - m. The recorded covenants shall contain a 15% rental restriction, which rental restriction shall be enforced solely by the Homeowner's Association to the extent permitted by law, with an exception for active military personal that are required to relocate. THE CITY WILL VERIFY THAT THE 15% RENTAL RESTRICTION IS IN THE DECLARATION OF RESTRICTIVE COVENANTS RECORDED SIMULTANEOUSLY WITH THE FINAL PLAT FOR THE COMMUNITY, HOWEVER, THE CITY HAS NO ABILITY TO ENFORCE THE RENTAL RESTRICTION AND DOES NOT EXPRESS ANY OPINION AS TO THE ENFORCEABILITY OF RENTAL RESTRICTIONS IN RESIDENTIAL COMMUNITIES.
9. Each unit shall have either a 1 or 2 car garage with each unit having a pad in front for two cars. Additionally, the development shall provide a minimum of 29 guest parking spaces.
  10. The access on Panola Road shall be a right in-right out only, and a deceleration lane shall be installed.
  11. A 5ft sidewalk and minimum 6ft landscape strip shall be installed along the property frontage on Thompson Mill Road and Panola Road. Additionally, the sidewalk on Panola Road shall connect offsite into the existing sidewalk in front of the Panola Mill Subdivision.
  12. The development shall provide a minimum of 20% enhanced open space.

### Attachments:

1. Rezoning applicant amendment submitted on August 27, 2021, including updated statement of intent.
2. Original rezoning application dated June 2, 2021.
3. Technical Memorandum prepared by Lumin 8 comparing the potential traffic impacts of what is allowed now under the current zoning to what it could be under the original 76-unit townhome proposal.
4. Memorandum from City Engineer concerning traffic impacts dated June 14, 2021
5. RZ-21-003 Public Participation Plan
6. Zoning Agreement between Panola Mills HOA and the property owners of subject property, which includes the conditions of zoning placed on the property by DeKalb County in 2008 (Z-08-15000)

**Attachment 2:**

RZ-21-003 Application Amendment VsfW  
August 27 1 \$' \$#ž



# Battle Law

**August 27, 2021**

**VIA: Email {jsummerbell@stonecrestga.gov}**

**CLIENT/MATTER REF: Apex Land Company, LLC., 3177 Panola Road & 5207 Thompson Mill Road, Stonecrest, GA**

Attn: Jim Summerbell, AICP  
Planning and Zoning Director  
City of Stonecrest Planning and Zoning Division  
3120 Stonecrest Boulevard, Suite 190  
Stonecrest, GA 30038

Mr. Summerbell,

We hereby submit this amended Site Plan and amended Statement of Intent in reference to the above-mentioned application, located on Panola Road and Thompson Mill Road, Stonecrest, GA. Please find the latest documents, attached. Thank you.

Best,

*Dani Blumenthal*

Danielle Blumenthal  
Urban Planner  
Email: [dlb@battlelawpc.com](mailto:dlb@battlelawpc.com)

**AMENDED AND RESTATED  
STATEMENT OF INTENT**

And  
Other Material Required by the City of Stonecrest, Georgia Zoning Ordinance  
For

A Rezoning from NS and R-100 to RSM pursuant to the City of  
Stonecrest Zoning Ordinance

Of

Apex Land Company, LLC.  
c/o Battle Law, P.C.

For

+/- 9.56 acres of Land being all of  
Parcel Nos. 16 022 01 245 and 16 022 01 023  
Being in the 3<sup>rd</sup> District, City of Stonecrest

Submitted for Applicant by:

Michèle L, Battle  
Battle Law, P.C.  
3562 Habersham at Northlake  
Building J, Suite 100  
Tucker, GA 30084



## **I. STATEMENT OF INTENT**

Apex Land Company, LLC. (the “Applicant”) is seeking a rezoning for property located at the corner of Panola Road and Thompson Mill Road. The property is comprised of addresses 3177 Panola Road and 5207 Thompson Mill Road, bearing the parcel numbers 16 022 01 245 and 16 022 01 023, (the “Subject Property”). The Subject Property is currently zoned R-100 and NS with a land use designation of Suburban. The Applicant is seeking a rezoning to rezone the Subject Property to RSM for the development of a sixty-five (65) unit fee simple townhome community.

In addition to the above and the following the Applicant would like to point out that the Subject Property, as it lies today, is slated for development as a 25,000 square-foot shopping center. The NS zoning district, as well as the zoning conditions attached to the property, allow for the owner of this land to construct a shopping center in what is clearly a residential corridor. It is the contention of the Applicant that, in addition to the Rezoning Application Criteria below, the City Council take into consideration this fact. That intense of a use in this residential area would be highly out of place. This zoning proposal is much more in line with the abutting and nearby uses already in place and would improve upon them by creating a diversity of product and a transitional buffer between the apartments to the North and the single-family homes to the South and West.

This document is submitted both as a Statement of Intent with regard to this Application, a preservation of the Applicant’s constitutional rights, and the Rezoning Application Criteria. A surveyed plat and conceptual site plan of the Subject Property has been filed contemporaneously with the Application, along with other required materials.

## **III. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF APPLICANT’S CONSTITUTIONAL RIGHTS**

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be 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 the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that 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 Article I, 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 of its land while not substantially advancing legitimate state interests.

A denial of this Application would 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 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 1 of the Constitution of the State of Georgia.

A refusal by the City of Stonecrest City Council to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of 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 Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

A refusal to allow the land use amendment and/or rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the land use amendment and/or rezoning 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 Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the City on notice that it may elect to file a claim in the Superior Court of DeKalb demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be 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 the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that 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 Article I, 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 of its land while not substantially advancing legitimate state interests.

A denial of this Application would 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 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 1 of the Constitution of the State of Georgia.

A refusal to allow the special land use permit in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

#### **V. CONCLUSION**

For the foregoing reasons, the Applicant respectfully requests that the simultaneous Future Land Use Amendment Application and Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 27th day of August 2021.

Respectfully submitted,

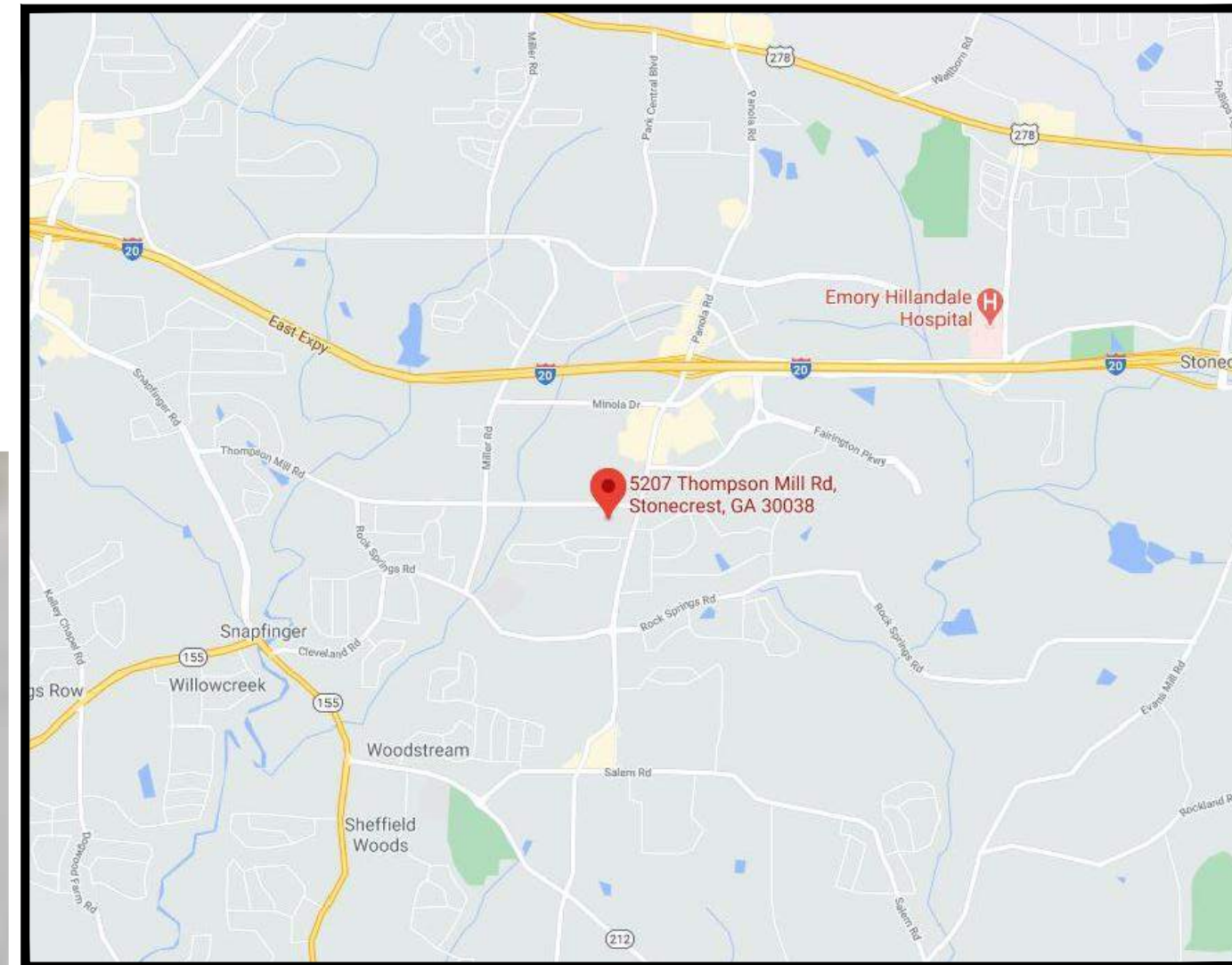
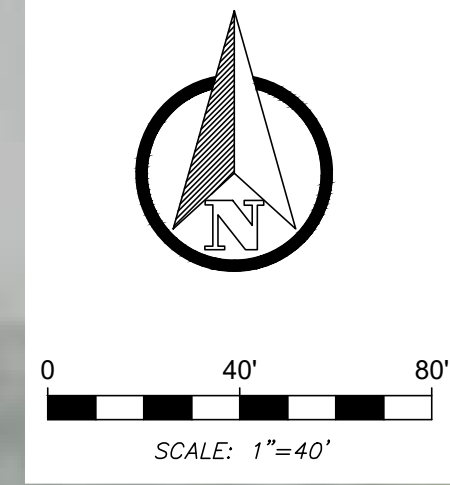


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Michèle L. Battle, Esq.



D:\DROPPBOX (CONTINUED-MASTER)\DROPPBOX (CONTINUED-MASTER)\(P-DRIVE) PROJECTS\2021\21-120 - SHEPCO - PANOLA & THOMPSON MILL ASSEMBLAGE\DWG\21-120-CP09-RSM



VICINITY MAP  
N.T.S.

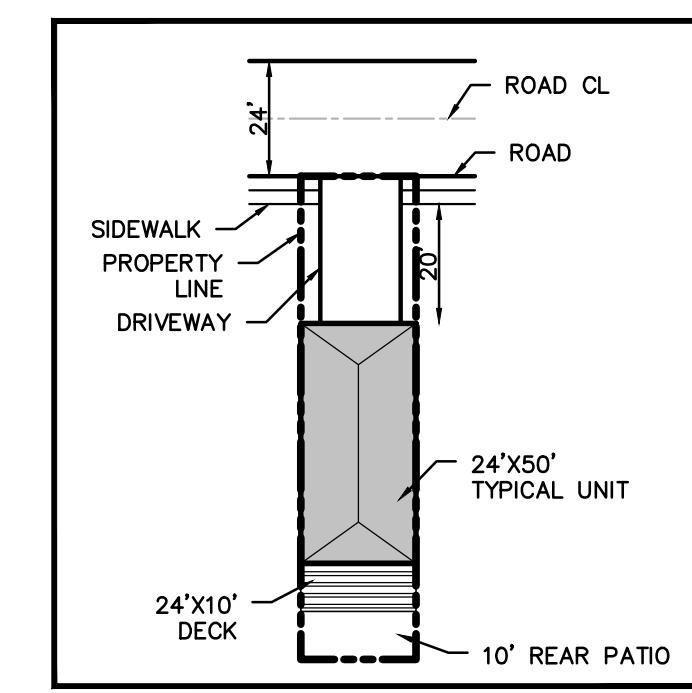
**SITE LEGEND**

- PROPERTY LINE
- BUILDING SETBACK/BUFFER
- FENCE
- (10) UNIT COUNT

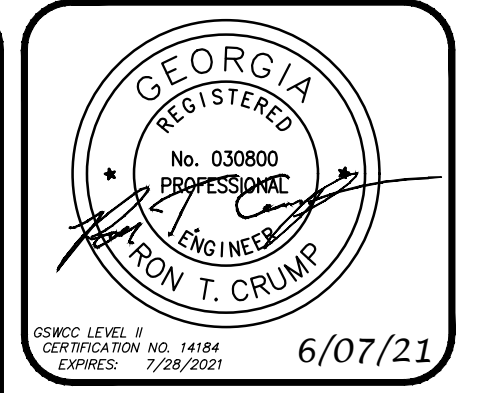
**SITE DATA**

LOCAL JURISDICTION	CITY OF STONECREST
PRIMARY PARCEL ID	1602201023, 1602201002
ZONING DESIGNATION	R-100/NS
PROPOSED ZONING	RSM
TOTAL PROPERTY ACREAGE	±9.59 ACRES
TOTAL DISTURBED ACREAGE	TBD
PROPOSED USE	TOWNHOMES
NUMBER OF UNITS	65
MAXIMUM HEIGHT	3 STORIES OR 45'
LOT COVERAGE	75%
FRONT SETBACK	0' + ROW + STREETSCAPE
SIDE SETBACK	0' MIN. WITH 10' BETWEEN BLDGS
REAR SETBACK	20'
OPEN SPACE PROVIDED	4.87 Acres (50.7% OF TOTAL)
STREETScape(FRONTAGE ROAD)	6' LANDSCAPE STRIP +5' SIDEWALK
TRANSITIONAL BUFFER	20' FROM RSM ZONING

<b>DENSITY BONUS: (DWELLING UNITS PER ACRE (DU/ACRE))</b>	
CHARACTER AREA:	NEIGHBORHOOD CHARACTER AREA
BONUS TYPES IN PROJECT:	PUBLIC IMPROVEMENTS (EXTENDED SIDEWALK) ADDITIONAL ENHANCED OPEN SPACE (20%)
<b>METHOD:</b> MULTIPLY THE BASE X % = ADDITIONAL UNITS ELIGIBLE	
<b>STEP 1: CALCULATE DENSITY GAINED BY BONUS TYPE:</b>	
<b>PUBLIC IMPROVEMENTS:</b>	<b>ENHANCED OPEN SPACE (20%):</b>
BASE DENSITY: 4	BASE DENSITY: 4
% BONUS: 20%	% BONUS: 50%
BASE X 20% = 4 X 20% = 0.8	BASE X 50% = 4 X 50% = 2
<b>STEP 2: ADD BONUS DENSITY TO BASE DENSITY</b>	
BASE + CUMULATIVE BONUS = TOTAL DENSITY ALLOWED	
4 + (0.8 + 2) = 6.80 DU/ACRE CALCULATED DENSITY	
USE DENSITY FOR RSM = 6.80 DU/ACRE	
<b>STEP 3: PROPOSED DENSITY</b>	
TOTAL UNITS PROPOSED / TOTAL AREA = PROPOSED UNITS PER ACRE	
65 UNITS / 9.56 ACRES = 6.77 DU/ACRE	



TYPICAL UNIT DETAIL  
NTS



**CONTINUED GROUP**  
7555 COMMERCE DRIVE  
SUITE 600  
DECATUR, GA 30030  
770.335.7403  
www.tcg.engineer



**APEX**  
**LAND COMPANY**

THOMPSON MILL &  
PANOLA ROAD  
ISSUED FOR: CONCEPT  
JURISDICTION: CITY OF STONECREST  
LOCATION: 5207 & 5165 THOMPSON MILL RD  
LITHONIA, GA

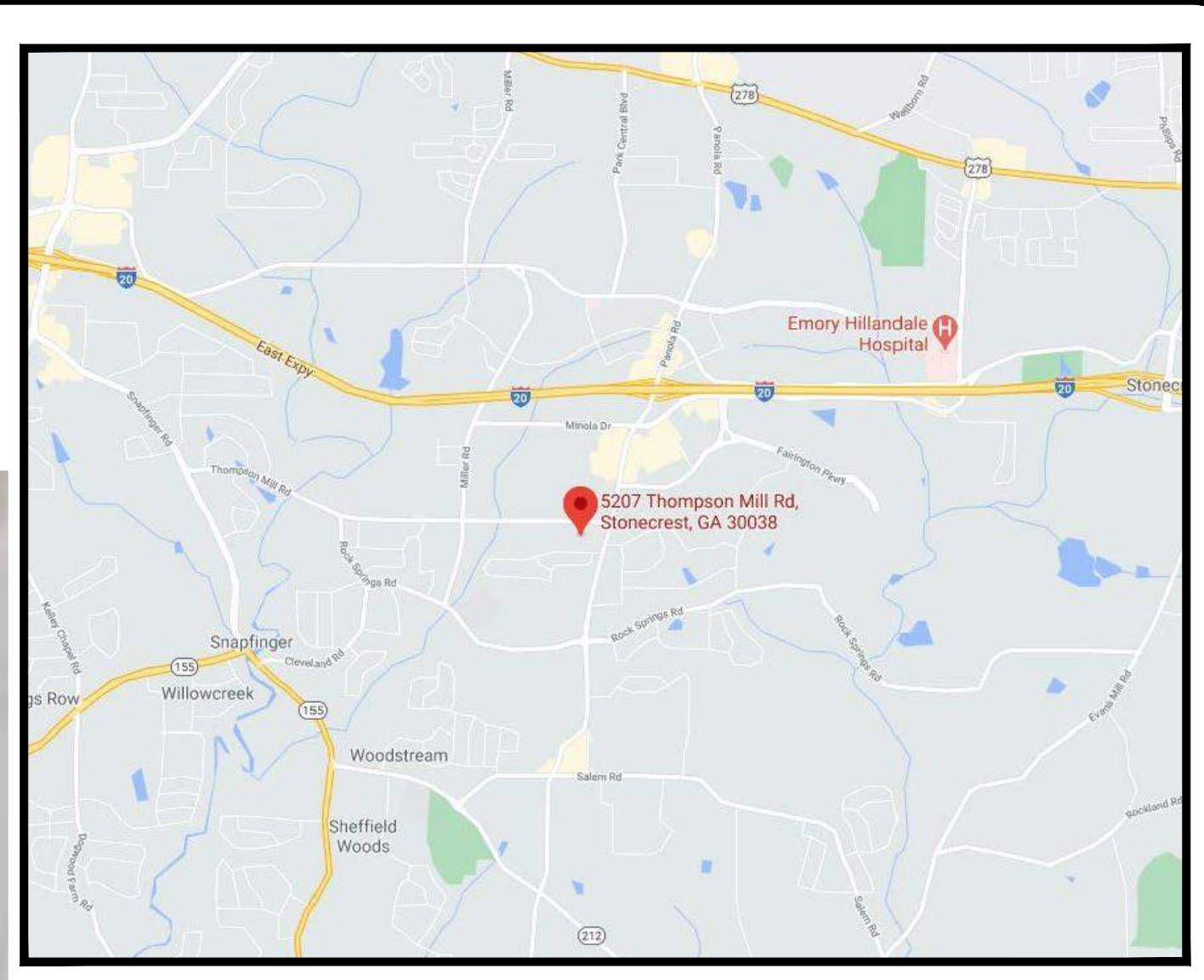
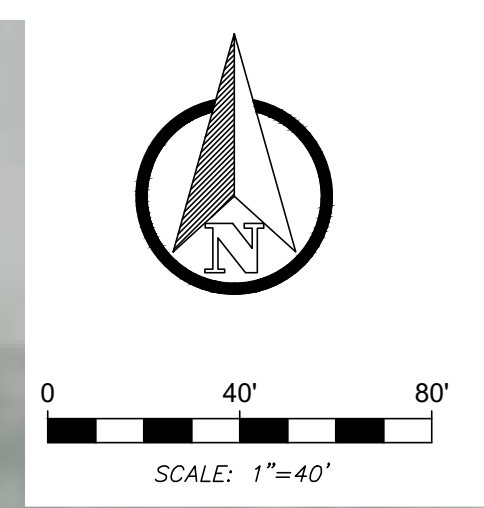
#	DATE	REVISIONS

DRAWN: EGS  
CHECK: BHR  
JOB NO: 21-120  
DATE: 08/27/21

**CONCEPT**  
**PLAN 9**  
SHEET **C100**



D:\DROPPBOX (CONTINUED-MASTER)\DROPPBOX (CONTINUED-MASTER)\P-DRAWING PROJECTS\2021\1-120 - SHEFCO - PANOLA & THOMPSON MILL ASSEMBLY\DWG\21-120-CP09-RSM



VICINITY MAP  
N.T.S.

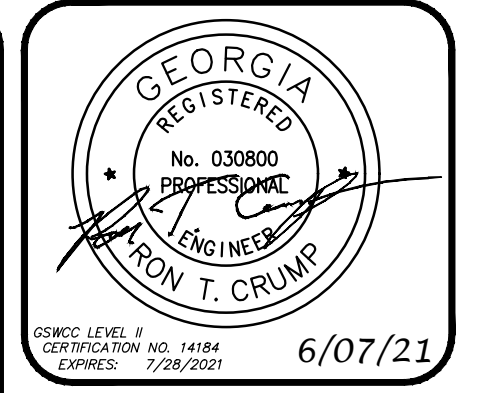
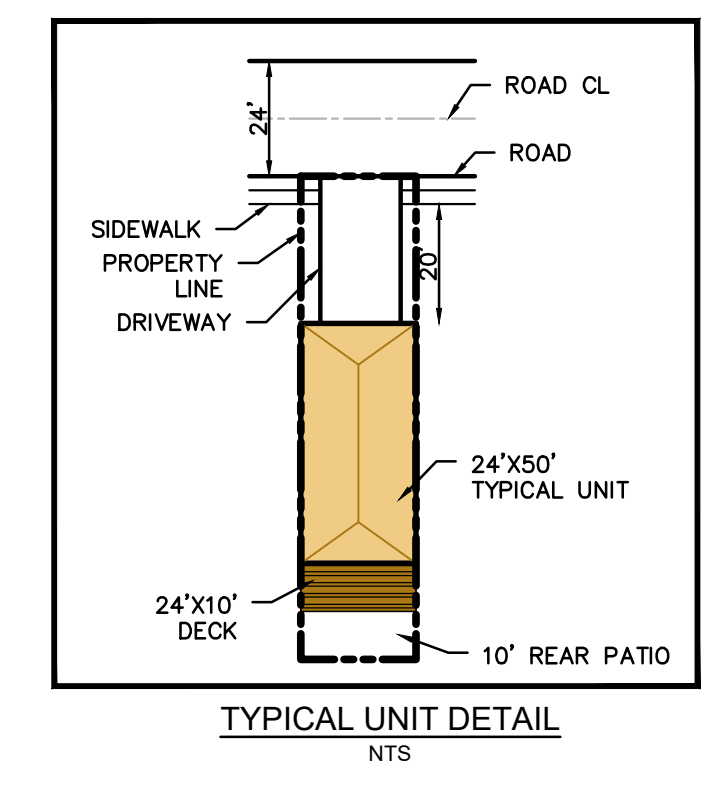
SITE LEGEND

- PROPERTY LINE
- BUILDING SETBACK/BUFFER
- XX XX XX FENCE
- (10) UNIT COUNT

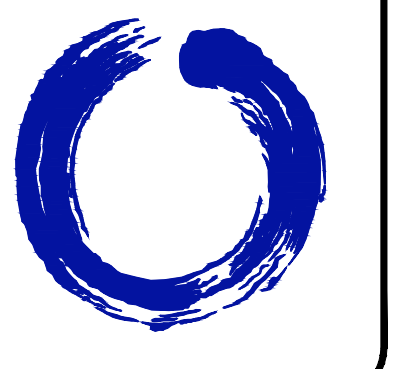
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SIDE SETBACK	0' MIN. WITH 10' BETWEEN BLDGS
REAR SETBACK	20'
OPEN SPACE PROVIDED	5.32 Acres (55.5% OF TOTAL)
STREETSCAPE(FRONTAGE ROAD)	6' LANDSCAPE STRIP + 5' SIDEWALK
TRANSITIONAL BUFFER	20' FROM RSM ZONING

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**CONTINUED GROUP**  
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**APEX LAND COMPANY**

THOMPSON MILL & PANOLA ROAD  
ISSUED FOR: CONCEPT  
JURISDICTION: CITY OF STONECREST  
LOCATION: 5207 & 5165 THOMPSON MILL RD LITHONIA, GA

#	DATE	REVISIONS

DRAWN: EGS	CHECK: BHR
JOB NO: 21-120	DATE: 08/27/21

CONCEPT PLAN 9  
SHEET C101

This drawing is the property of the City of Stonecrest and is not to be reproduced, copied, or used in any way without the express written consent of the City of Stonecrest. The City of Stonecrest is not responsible for any errors or omissions in this drawing.



**RZ-21-003:**

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**STATEMENT OF INTENT**

And

Other Material Required by the City of Stonecrest, Georgia  
Zoning Ordinance  
For

A Rezoning from NS and R-100 to RSM pursuant to the City  
of Stonecrest Zoning Ordinance

Of

Apex Land Company, LLC.,  
For

+/-9.56 acres of Land  
Being all of

Parcel Nos. 16 022 01 245 and 16 022 01 023  
Being in 3rd District,  
City of Stonecrest

Submitted for Applicant by:

Michèle L. Battle  
Battle Law, P.C.  
One West Court Square, Suite  
750 Decatur, Georgia 30030  
(404) 601-7616 Phone  
(404) 745-0045 Facsimile  
[mlb@battlelawpc.com](mailto:mlb@battlelawpc.com)

## **I. STATEMENT OF INTENT**

Apex Land Company, LLC. (the “Applicant”) is seeking a rezoning for property located at the corner of Panola Road and Thompson Mill Road. The property is comprised of addresses 3177 Panola Road and 5207 Thompson Mill Road, bearing the parcel numbers 16 022 01 245 and 16 022 01 023, (the “Subject Property”). The Subject Property is currently zoned R-100 and NS with a land use designation of Suburban. The Applicant is seeking a rezoning to rezone the Subject Property to RSM for the development of a seventy-six (76) unit fee simple townhome community.

In addition to the above and the following the Applicant would like to point out that the Subject Property, as it lies today, is slated for development as a 25,000 square-foot shopping center. The NS zoning district, as well as the zoning conditions attached to the property, allow for the owner of this land to construct a shopping center in what is clearly a residential corridor. It is the contention of the Applicant that, in addition to the Rezoning Application Criteria below, the City Council take into consideration this fact. That intense of a use in this residential area would be highly out of place. This zoning proposal is much more in line with the abutting and nearby uses already in place and would improve upon them by creating a diversity of product and a transitional buffer between the apartments to the North and the single-family homes to the South and West.

This document is submitted both as a Statement of Intent with regard to this Application, a preservation of the Applicant’s constitutional rights, and the Rezoning Application Criteria. A surveyed plat and conceptual site plan of the Subject Property has been filed contemporaneously with the Application, along with other required materials.

## **II. REZONING APPLICATION CRITERIA**

*A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;*

The zoning proposal is in conformity with the policy and intent of the comprehensive plan. While the rezoning alone would not conform to the comprehensive plan, the combination of the rezoning and land use amendment does conform with the plan. Granting both will change the future land use from Suburban Neighborhood to Urban Neighborhood. This change will allow for the rezoning proposal from NS and R-100 to M-1 in full satisfaction of the comprehensive plan.

*B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;*

The zoning proposal will permit a use that is suitable in view of the use and development



of adjacent and nearby properties. Currently, taking into consideration the future land use, zoning, and existing conditions on the Subject Property, it is slated to be developed as a shopping center. However, the property is almost exclusively surrounded by residential uses. The zoning proposal will allow the development of a residential use that will bring much less intensity to the residential developments that surround the Subject Property. Therefore, the zoning proposal will permit use that is suitable in view of the use and development of adjacent and nearby properties.

*C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;*

The Subject Property as currently zoned has an economic use, albeit an unreasonable one given the surrounding area. The Subject Property is currently laid out to be developed as a shopping center. The zoning, future land use, and current conditions were put in place for the purpose of developing a shopping center. So, while the Subject Property could be used for this economic end, putting a shopping center on this property would be an unreasonable burden on the surrounding residences. The shopping center would be built directly in the middle of various residential neighborhoods and would generate traffic late into the evening. The zoning proposal would allow for a townhome community to be built here instead, which would generate much less traffic than a shopping center.

*D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;*

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The zoning proposal will be much more in line than what the Subject Property is currently laid out for. The proposed townhome community will serve as another residential development to serve the area's housing market. One detail to point out is that the ingress/egress plan is designed to maximize access to the nearby highway, while simultaneously minimizing the amount of traffic that would be traveling past neighboring communities. This is achieved by placing an exit at the Northern side of the Subject Property to allow quick access to the light, and thereby the highway. The ingress/egress on the Southeastern portion of the property will be a right-in/right-out only. This way, residences returning to their home can turn right into their community without having to cross the ingress/egress of the neighboring community to the South.

*E. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;*

The Applicant is not aware of any existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal.

*F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and*

The zoning proposal will not adversely affect historic buildings, sites, district, or archaeological resources.

*G. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.*

### **III. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF APPLICANT'S CONSTITUTIONAL RIGHTS**

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be 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 the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that 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 Article I, 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 of its land while not substantially advancing legitimate state interests.

A denial of this Application would 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 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 1 of the Constitution of the State of Georgia.

A refusal by the City of Stonecrest City Council to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and

owners of 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 Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

A refusal to allow the land use amendment and/or rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the land use amendment and/or rezoning 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 Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the City on notice that it may elect to file a claim in the Superior Court of DeKalb demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be 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 the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that 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 Article I, 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 of its land while not substantially advancing legitimate state interests.

A denial of this Application would 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 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 1 of the Constitution of the State of Georgia.

A refusal to allow the special land use permit in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

#### **V. CONCLUSION**

For the foregoing reasons, the Applicant respectfully requests that the simultaneous Future Land Use Amendment Application and Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 8th day of June, 2021.

Respectfully submitted,



---

Michèle L. Battle, Esq.  
Attorney For Applicant



## Applicant/Petitioner Notarized Certification

Petitioner states under oath that: (1) he/she is the executor or Attorney-In-Fact under a Power-of- Attorney for the owner (attach a copy of the Power-of-Attorney letter and type name above as "Owner"); (2) he/she has an option to purchase said property (attach a copy of the contract and type name of owner above as "Owner"); (3) he/she has an estate for years which permits the petitioner to apply (attach a copy of lease and type name of owner above as "Owner").

Applicant / Petitioner	Signature:		Date: 6/ 2/2021
	Address: 4080 McGinnis Ferry Road, Suite 203	City, State: Alpharetta, GA.	Zip: 30005
	Phone: 770-777-4704		
Sworn to and subscribed before me this <u>2</u> day of <u>June</u> , 20 <u>21</u>			
Notary Public: <u>Leah D. Carnes</u>			
Attorney / Agent	Signature:		Date: 6/ 1 /2021
	Address: One West Court Square, Suite 750	City, State: Decatur, GA.	Zip: 30030
	Phone: 404-601-7616		
Sworn to and subscribed before me this <u>1st</u> day of <u>June</u> , 20 <u>21</u>			
Notary Public:			





Affidavit  
Notary  
Fee


To the best of my knowledge, this zoning application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Stonecrest Zoning Ordinance.

Applicant's Name: Apex Land Company, LLC.

Applicant's Signature:  Date: 6/ 2 /2021

Sworn to and subscribed before me this 2 Day of June 20 21

Notary Public: Leah D. Carnes

Signature: 

My Commission Expires: 02/20/24



Application Fee  Sign Fee  Legal Fee

Fee: \$ Payment:  Cash  Check  CC Date:

Approved  Approved with Conditions  Denied Date:


**\*One sign is required per street frontage and/or every 500 feet of street frontage**



### Campaign Disclosure Statement

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission?

Yes  No

Applicant / Owner	Signature: 
	Address: 4080 McGinnis Ferry Road, Suite 203, Alpharetta, GA. 30005
	Date: 6/2/2021

If you answered yes above, please complete the following section:


Date	Government Official	Official Position	Description	Amount



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Yes     No

Applicant / Owner	Signature: 
	Address: One West Court Square, Suite 750, Decatur, GA. 30030
	Date: 6/ 1 /2021

If you answered yes above, please complete the following section:

Date	Government Official	Official Position	Description	Amount



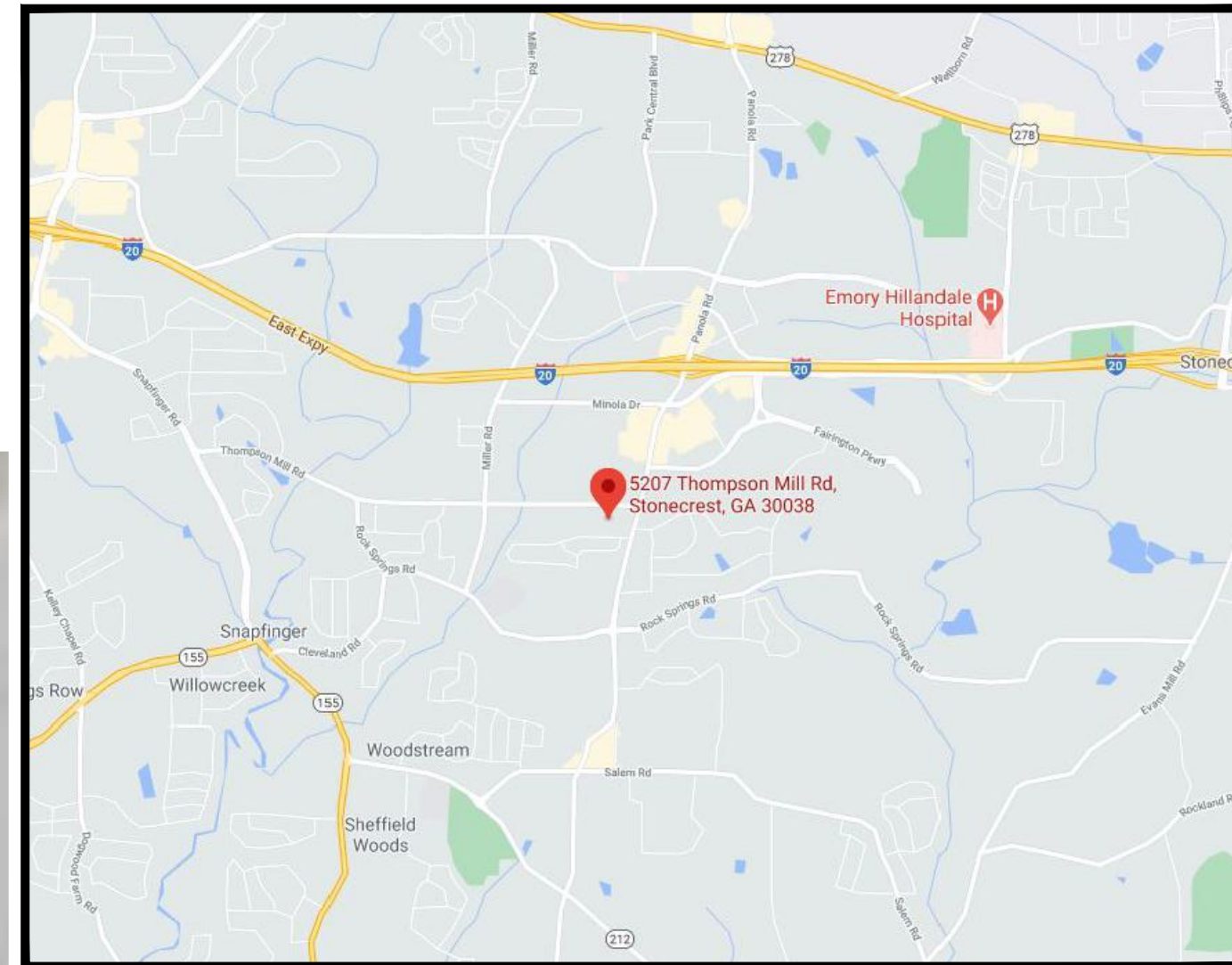
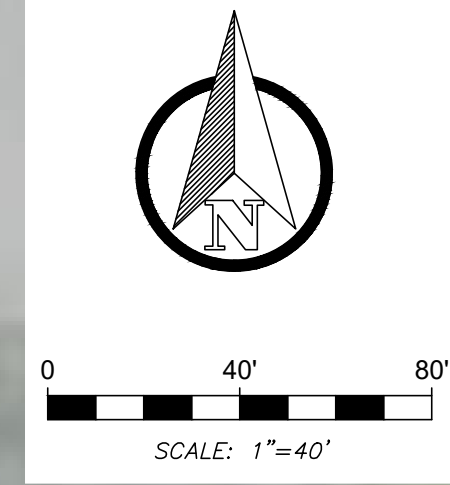


## Rezoning Application

Owner Information	Owner's Name: Zacharia Majed; Mohammed Al Mulki Rania; Amir Haffer		
	Owner's Address: 1275 VINTAGE CLUB DR. DULUTH GA 30097		
	Phone:	Fax:	Email:
	Property Address: 3177 Panola Road and 5207 Thompson Mill Road		Parcel Size:
	Parcel ID: 16 022 01 245; 16 022 01 023		
	Current Zoning Classification: NS and R-100		
	Requested Zoning Classification: RSM		
	Name: Apex Land Company, LLC.		
	Address: 4080 McGinnis Ferry Road Suite 203, Alpharetta, GA. 30005		
	Phone: 770-7774704		Fax:
Cell: 404-732-4136		Email: aaronrissler@icloud.com	
Property Information	Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements? <div style="text-align: right;"><input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</div>		
	1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties? <div style="text-align: center;">Yes.</div>		
	2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned? <div style="text-align: center;">Yes.</div>		
	3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property? <div style="text-align: center;">No.</div>		
	4. Are other existing or changing conditions affecting the existing use or usability of the development of the property which give supporting grounds for either approval or disapproval of the zoning proposal? <div style="text-align: center;">None that the Applicant are aware of.</div>		
	5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources? <div style="text-align: center;">No.</div>		
	6. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools? <div style="text-align: center;">No.</div>		
Questionnaire			



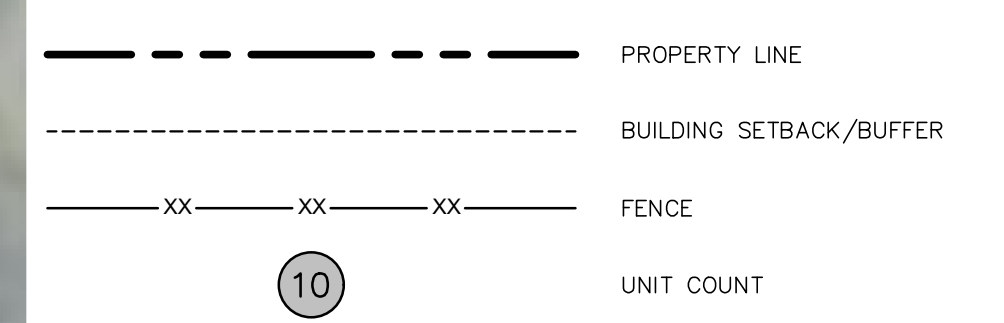
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**VICINITY MAP**

N.T.S.

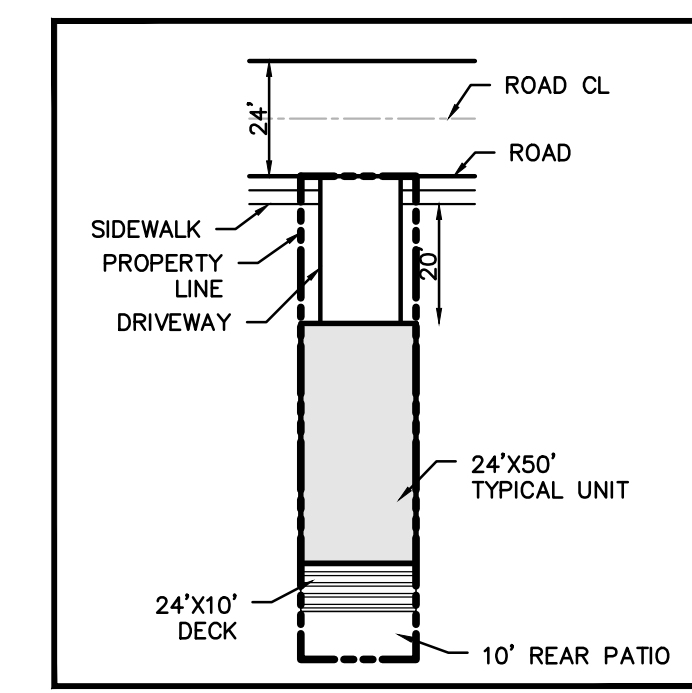
**SITE LEGEND**



**SITE DATA**

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METHOD:	MULTIPLY THE BASE X % = ADDITIONAL UNITS ELIGIBLE	
STEP 1: CALCULATE DENSITY GAINED BY BONUS TYPE:		
<b>PUBLIC IMPROVEMENTS</b>	<b>SUSTAINABILITY ELEMENTS</b>	<b>ADDITIONAL ENHANCED OPEN SPACE</b>
BASE DENSITY: 4	BASE DENSITY: 4	BASE DENSITY: 4
% BONUS: 20%	% BONUS: 50%	% BONUS: 100%
BASE X 20% = 4 X 20% = 0.8	BASE X 50% = 4 X 50% = 2	BASE X 100% = 4 X 100% = 4
STEP 2: ADD BONUS DENSITY TO BASE DENSITY		
BASE + CUMULATIVE BONUS = TOTAL DENSITY ALLOWED		
4 + (0.8 + 2 + 4) = 10.8 DU/ACRE CALCULATED DENSITY		
USE MAX ALLOWED DENSITY FOR RSM = 8 DU/ACRE		
STEP 3: PROPOSED DENSITY		
TOTAL UNITS PROPOSED / TOTAL AREA = PROPOSED UNITS PER ACRE		
76 UNITS / 9.56 ACRES = 7.94 DU/ACRE		



TYPICAL UNIT DETAIL  
NTS

**PRELIMINARY CONCEPT**

NOTE: THIS CONCEPTUAL DESIGN SHOULD BE UTILIZED AS A GRAPHICAL REPRESENTATION OF A POSSIBLE DESIGN CHOICE. THE INFORMATION ON THIS PLAN WAS DESIGNED FROM LIMITED MATERIAL AND HAS ITS INACCURACIES, THEREFORE IT SHOULD NOT BE USED FOR CONSTRUCTION UNTIL ALL APPLICABLE MATERIAL NEEDED HAS BEEN REVIEWED AND INCORPORATED.

**CONTINUED GROUP**  
7555 COMMERCE DRIVE  
SUITE 600  
DECATUR, GA 30030  
770.335.7403  
www.tcg.engineer



**APEX**  
**LAND COMPANY**

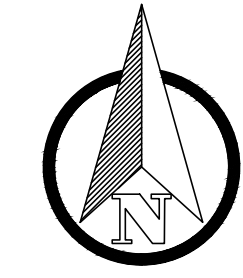
THOMPSON MILL &  
PANOLA ROAD  
ISSUED FOR: CONCEPT  
JURISDICTION: CITY OF STONECREST  
LOCATION: 5207 & 5165 THOMPSON MILL RD  
LITHONIA, GA

#	DATE	REVISIONS

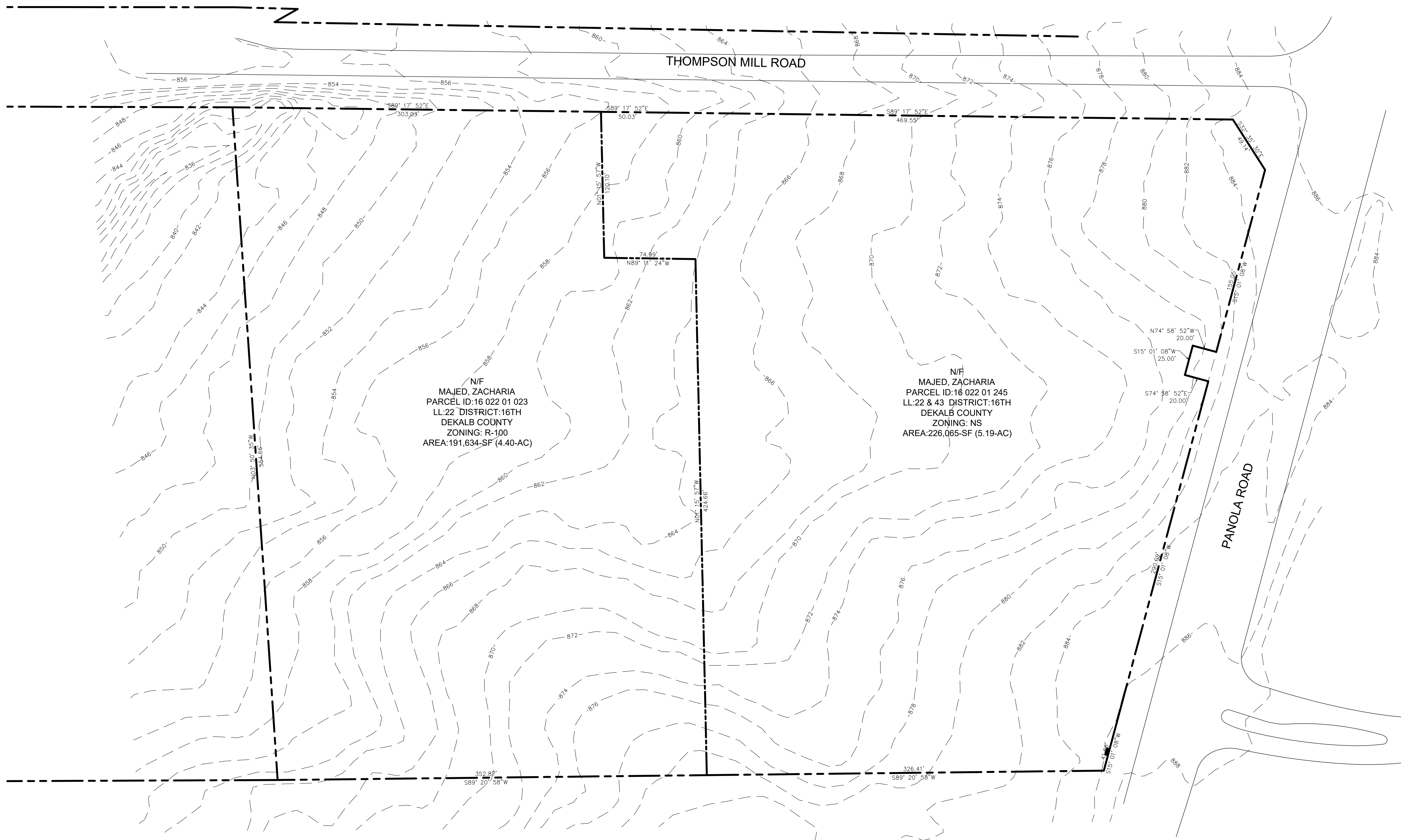
DRAWN:	CHECK:
EGS	BHR
JOB NO:	DATE:
21-120	06/07/21

**CONCEPT**  
**PLAN 6**  
SHEET **C100**





0 40' 80'  
SCALE: 1"=40'



N/F  
MAJED, ZACHARIA  
PARCEL ID:16 022 01 023  
LL:22 DISTRICT:16TH  
DEKALB COUNTY  
ZONING: R-100  
AREA:191,634-SF (4.40-AC)

N/F  
MAJED, ZACHARIA  
PARCEL ID:16 022 01 245  
LL:22 & 43 DISTRICT:16TH  
DEKALB COUNTY  
ZONING: NS  
AREA:226,065-SF (5.19-AC)

**CONTINUED GROUP**  
755 COMMERCE DRIVE  
SUITE 600  
DECATUR, GA 30030  
770.335.7403  
www.fcj.engineer



**APEX  
LAND COMPANY**

**THOMPSON MILL &  
PANOLA ROAD**  
ISSUED FOR: CONCEPT  
JURISDICTION: CITY OF STONECREST  
LOCATION: 5207 & 5165 THOMPSON MILL RD  
LITHONIA, GA

#	DATE	REVISIONS

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DRAWN: SBA	CHECK: BHR
JOB NO: 21-120	DATE: 06/07/21

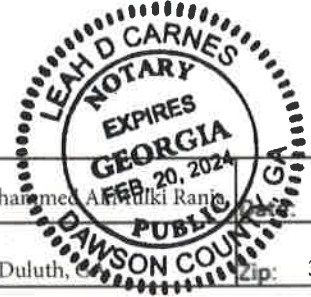
**PROPERTY  
BOUNDARY**  
SHEET **S100**



## Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this Zoning Map Petition application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for zoning amendment, and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

Property Owner (If Applicable)	Signature: <u><i>M S Zakaria</i></u>	Zacharia Majed	Date: <u>6/7/2021</u>
	Address: 1275 Vintage Club Drive	City, State: Duluth, GA.	Zip: 30097
	Phone: <u>678-957-9293</u>		
	Sworn to and subscribed before me this <u>7</u> day of June, 20 <u>21</u>		
	Notary Public: <u>Leah D. Carnes</u>		
Property Owner (If Applicable)	Signature: <u><i>Genia O'Mullin</i></u>	Mohamed A. Rafiki Rana	Date: <u>6/7/2021</u>
	Address: 1275 Vintage Club Drive	City, State: Duluth, GA	Zip: 30097
	Phone: <u>404-931-2825</u>		
	Sworn to and subscribed before me this <u>7</u> day of June, 20 <u>21</u>		
	Notary Public: <u>Leah D. Carnes</u>		
Property Owner (If Applicable)	Signature: <u><i>Amin Hoffman</i></u>	Amin Haffer	Date: <u>6/7/2021</u>
	Address: 1275 Vintage Club Drive	City, State: Duluth, GA	Zip: 30097
	Phone: <u>404-252-7975</u>		
	Sworn to and subscribed before me this <u>7</u> day of June, 20 <u>21</u>		
	Notary Public: <u>Leah D. Carnes</u>		







FRONT ENTRY RENDERING



LEFT SIDE ELEVATION

*J. Casper '17*



REAR ELEVATION

*J. Casper '17*



RIGHT SIDE ELEVATION

*J. Casper '17*

*24'x 50' Front Entry Product Townhomes  
Typical Side & Rear Elevations*

*1 11 11 11 11 11*





Front Elevation - 5 Units Building



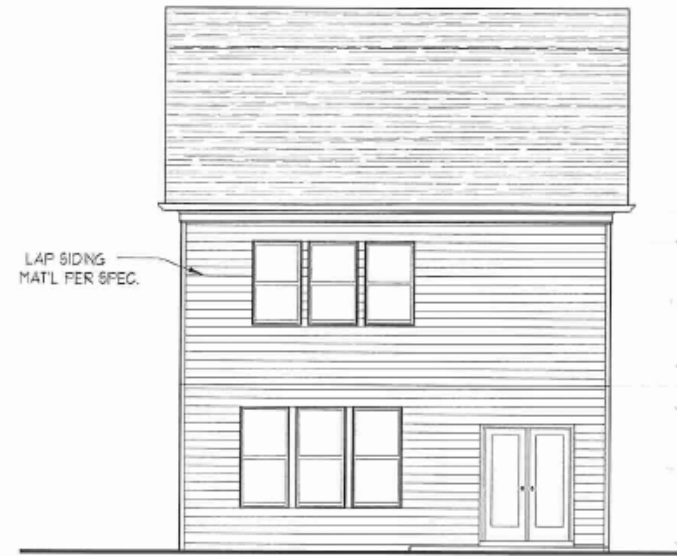


LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION

EXTERIOR MATERIALS:		
BUILDING ELEMENT	MATERIAL	TYPE
FACADE	BRICK	QUEEN SIZE
	BOARD & BATTEN	FIBER CEMENT PANEL SIDING W/ 1X3 BATTS AT 12" O.C.
	SIDING	CONCRETE LAP SIDING
	SHAKE	HARDIE STRAIGHT LAY
FRONT OFFSET	BRICK	QUEEN SIZE
SIDES & REAR	SIDING	CONCRETE LAP SIDING
ROOF	ARCHITECTURAL SHINGLES	LANDMARK PRO
SHED DORMER/ ACCENT ROOF	ARCHITECTURAL SHINGLES	LANDMARK PRO
FRONT PORCH ROOF	ARCHITECTURAL SHINGLES	LANDMARK PRO
PORCH FLOOR	CONCRETE	MONO
FRONT WINDOWS	VINYL	SDL W/ GRILL 4 OVER 4, WHITE
SIDE & REAR WINDOWS	VINYL	1 OVER 1, WHITE
FRONT DOOR	WOOD	3/0X6/8 6-LITE/1 PANEL W/ 10" TRANSOM



REAR ELEVATION

### Sides & Rear Elevations





J. Casper 2017





LEFT SIDE ELEVATION

*G. Casapu '17*



RIGHT SIDE ELEVATION

*G. Casapu '17*



REAR ELEVATION

*G. Casapu '17*



*ELEVATION A*



*ELEVATION B*



*ELEVATION C*



*ELEVATION D*

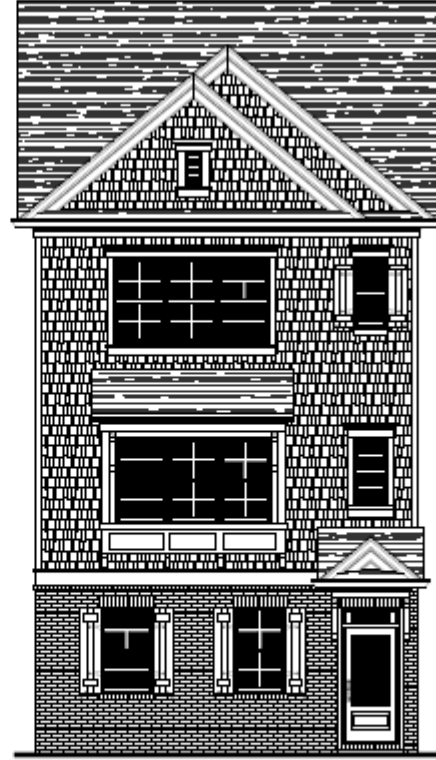




*ELEVATION A*



*ELEVATION B*



*ELEVATION C*



*ELEVATION D*



**Attachment 3, RZ-21-003:**

Technical Memorandums concerning traffic impacts

# TECHNICAL MEMORANDUM

55 Millard Farmer Ind. Blvd.  
Newnan, GA 30263  
678.423.0050  
www.Lumin8.com

**Subject:** Land Use Comparison

**Location:** Stonecrest, GA

**Date:** 06/08/2021

**To:** Aaron Rissler, Apex Land Company

**From:** Speedy Boutwell, PE, PTOE

---

## INTRODUCTION

This technical memorandum includes conducting a trip generation comparison between a residential development and a retail development for the southwest corner of the Thompson Mill Road and Panola Road intersection in Stonecrest, GA. The proposed location is shown in Figure 1.

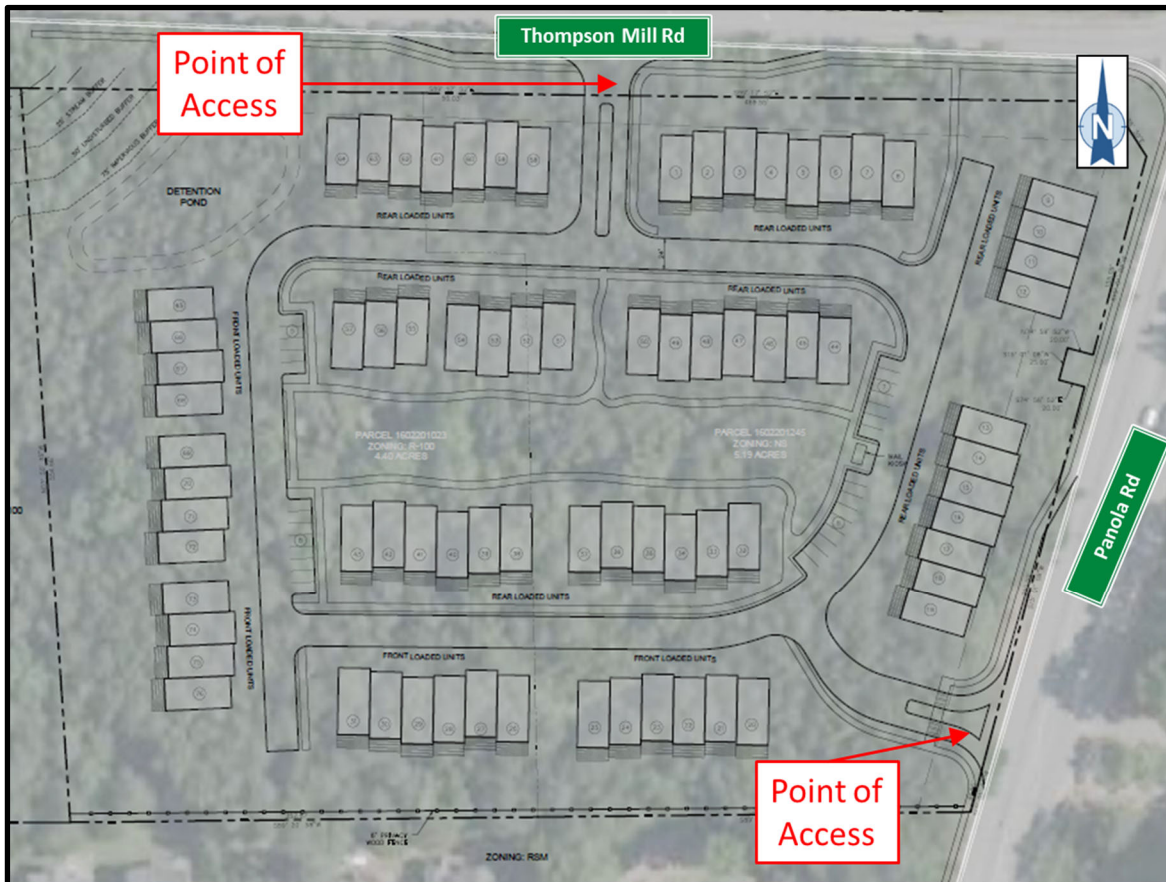
**Figure 1: PROPOSED LOCATION**



## DEVELOPMENT TYPES

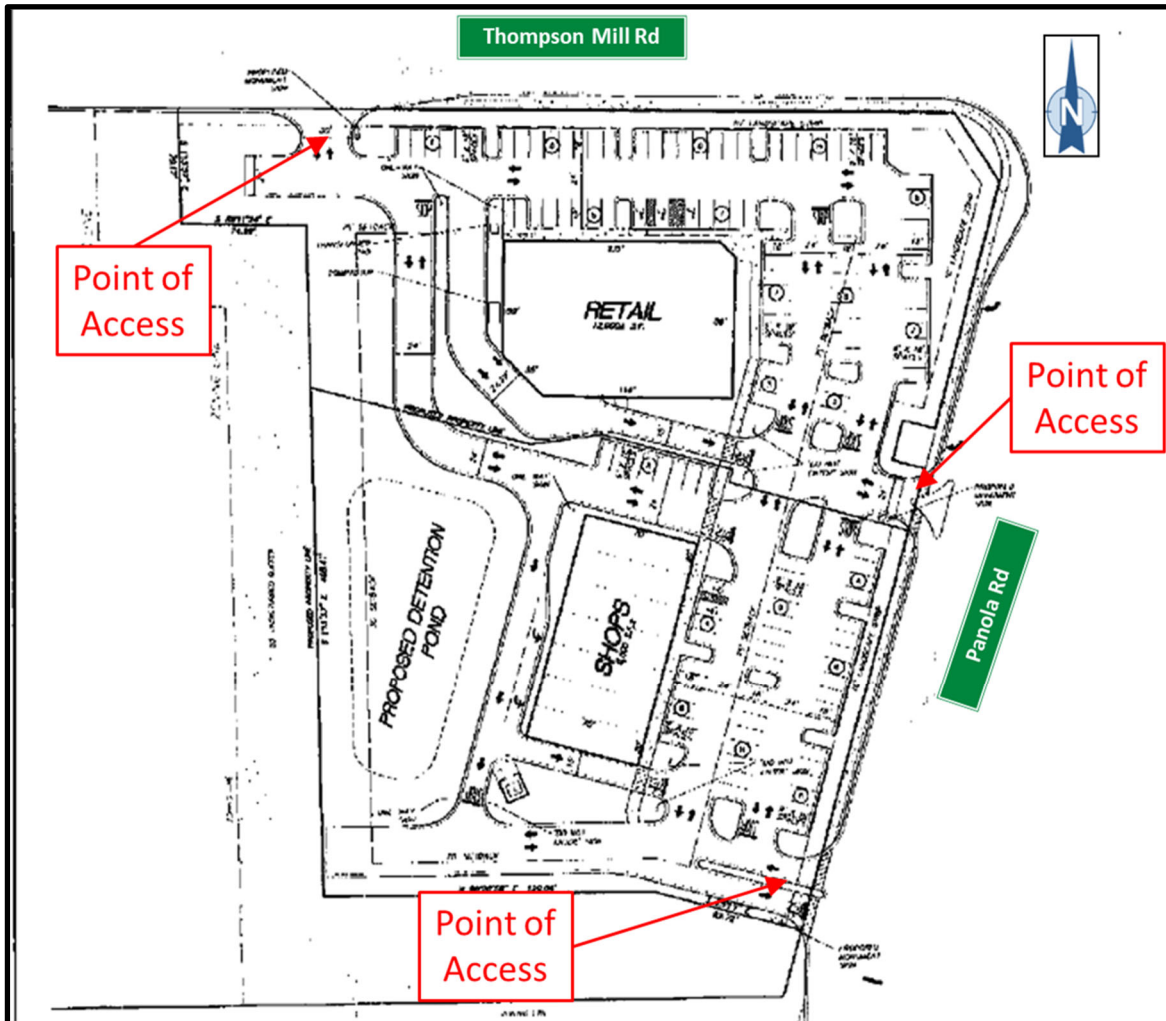
The residential development proposes a total of 76 townhomes. According to the site plan the residential development would have two points of access. The site plan for the residential development is shown below in Figure 2.

Figure 2: RESIDENTIAL PLAN



The retail development proposes two separate buildings with a gross total of 21,800 SF of retail space. According to the site plan the retail development would have three points of access. The site plan for the retail development is shown below in Figure 3.

Figure 3: RETAIL PLAN



# PROJECTED CONDITIONS

## TRIP GENERATION

The trips generated by the development were estimated using trip generation rates found in ITE’s publication *Trip Generation*, 10<sup>th</sup> Edition. *TripGen 10* software from Trafficware was used to facilitate the calculation. The trip generation publication contains multiple associated trip rates for the listed land use. The rate that resulted in the larger trip generation was used for this study. The weekday AM and PM Peak Hour trip generation estimates correspond to the peak hour of the adjacent street.

### RESIDENTIAL

The trip generation for the residential development can be seen below in Table 1. ITE Code 220 (Multifamily (Low-Rise)) was used for the proposed development, as this code specifically calls out the ‘townhouse’ use. The trip generation data is attached.

**Table 1: TRIP GENERATION – RESIDENTIAL**

ITE CODE	LAND USE DESCRIPTION	SIZE	DAILY TRIPS	AM PEAK HOUR			PM PEAK HOUR		
				ENTER	EXIT	TOTAL	ENTER	EXIT	TOTAL
220	Townhouses	76 units	556	9	28	37	29	17	46

### RETAIL

The trip generation for the retail development can be seen below in Table 2. The ITE Codes used for the retail development were assumed based on the site plan in Figure 3. The trip generation data is attached.

**Table 2: TRIP GENERATION – RETAIL**

ITE CODE	LAND USE	SIZE	DAILY 2-WAY TRIPS	AM PEAK HOUR			PM PEAK HOUR		
				ENTER	EXIT	TOTAL	ENTER	EXIT	TOTAL
814	Shops	9.8 KSF	622	18	13	31	35	32	67
815	Retail	12 KSF	638	10	4	14	29	29	58
<b>UNADJUSTED VOLUME</b>			1260	28	17	45	64	61	125
<b>PASS-BY TRIPS</b>			-240	0	0	0	-16	-16	-32
<b>ADJUSTED VOLUME (TOTAL NEW TRIPS)</b>			<b>1020</b>	<b>28</b>	<b>17</b>	<b>45</b>	<b>48</b>	<b>45</b>	<b>93</b>

## CONCLUSION

Based on the findings of this technical memorandum, the conclusions are as follows:

- A trip generation was completed for a residential development with 76 townhomes:
  - The development is estimated to produce 556 daily trips to the adjacent streets (278 entering, 278 exiting).
  - The AM peak hour produces 37 total trips (9 entering, 28 exiting).
  - The PM peak hour produces 46 total trips (29 entering, 17 exiting).
  
- A trip generation was completed for a retail development with 21,800 SF of space:
  - The development is estimated to produce 1,260 total daily trips including pass-by trips (630 entering, 630 exiting).
  - The AM peak hour produces 45 total trips (28 entering, 17 exiting).
  - The PM peak hour produces 93 total trips (48 entering, 45 exiting).
  
- Based on the results of the Trip Generations, it is expected the retail development would generate twice the number of daily trips than the residential development.

## Trip Generation Summary

Alternative: Alternative 1

Phase:

Open Date: 6/8/2021

Project: Residential

Analysis Date: 6/8/2021

ITE	Land Use	Weekday Average Daily Trips			Weekday AM Peak Hour of Adjacent Street Traffic			Weekday PM Peak Hour of Adjacent Street Traffic					
		*	Enter	Exit	Total	*	Enter	Exit	Total	*	Enter	Exit	Total
220	LOW-RISE 1 76 Dwelling Units		278	278	556		9	28	37		29	17	46
Unadjusted Volume			278	278	556		9	28	37		29	17	46
Internal Capture Trips			0	0	0		0	0	0		0	0	0
Pass-By Trips			0	0	0		0	0	0		0	0	0
Volume Added to Adjacent Streets			278	278	556		9	28	37		29	17	46

Total Weekday Average Daily Trips Internal Capture = 0 Percent

Total Weekday AM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

Total Weekday PM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

\* - Custom rate used for selected time period.

Source: Institute of Transportation Engineers, Trip Generation Manual 10th Edition

**TRIP GENERATION 10, TRAFFICWARE, LLC**



## Trip Generation Summary

Alternative: Alternative 1

Phase:

Open Date: 6/8/2021

Project: Retail

Analysis Date: 6/8/2021

ITE	Land Use	Weekday Average Daily Trips			Weekday AM Peak Hour of Adjacent Street Traffic			Weekday PM Peak Hour of Adjacent Street Traffic					
		*	Enter	Exit	Total	*	Enter	Exit	Total	*	Enter	Exit	Total
814	STOREVARIETY 2 9.8 1000 Sq. Ft. GFA		311	311	622		18	13	31		35	32	67
815	STOREDISC 1 12 1000 Sq. Ft. GFA		319	318	638		10	4	14		29	29	58
Unadjusted Volume			630	630	1260		28	17	45		64	61	125
Internal Capture Trips			0	0	0		0	0	0		0	0	0
Pass-By Trips			120	120	240		0	0	0		16	16	32
Volume Added to Adjacent Streets			510	510	1020		28	17	45		48	45	93

Total Weekday Average Daily Trips Internal Capture = 0 Percent

Total Weekday AM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

Total Weekday PM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

\* - Custom rate used for selected time period.

Source: Institute of Transportation Engineers, Trip Generation Manual 10th Edition

**TRIP GENERATION 10, TRAFFICWARE, LLC**

Ten 10th Street, NW, Suite 1400  
Atlanta, Georgia 30309  
United States  
T +1.404.978.7600  
F +1.404.978.7660  
[www.jacobs.com](http://www.jacobs.com)

---

<b>Subject</b>	<b>Proposed Townhome Development, Thompson Mill Road at Panola Road</b>	<b>Project Name</b>	Stonecrest, Georgia
<b>Attention</b>	Jim Summerbell, Planning and Zoning Director		
<b>From</b>	Tom Udell, City Engineer		
<b>Date</b>	June 14, 2021		

---

A townhome development has been proposed at the southwest corner of Thompson Mill Road at Panola Road. The proposal will construct 78 units. This is below the threshold of 190 units to trigger a traffic study. The current zoning is for a commercial development which will produce more traffic than the proposed residential. The city's transportation master plan identifies Thompson Mill Road for widening from 2 to 4 lanes, as well as intersection improvements at Panola Road.

**Attachment 4:**

RZ-21-003 Public Participation Plan

**PUBLIC PARTICIPATION PLAN  
FORM D**

Applicant: Apex Land Company, LLC.

1. The following individuals (property owners within a quarter mile of the property), homeowner’s associations, political jurisdictions, other public agencies, etc., will be notified in accordance with the requirements of Article 28.4.7 of the City of South Fulton Zoning Ordinance:

Everybody living in the following communities: Panola Mills, Glencroft, Havenwood, and Woodgrove communities.

2. The individuals and others listed in 1. above will be notified of the requested rezoning/use permit using the following method(s): (e.g., letters, meeting notices, telephone calls, e-mails, etc.)

Letters and meeting notices to set up meetings that will be held via Zoom

3. Individuals and others listed in 1. above will be allowed to participate in the following manner: (At least one meeting at a convenient time and location is required.)

We will hold Zoom meetings with the community members.

*Attach additional sheets as needed.*

### Havenwood Community Meeting Registration Report

First Name	Last Name	Email	Registration Time	Approval Status	
Donna	Priest-Brown	<a href="mailto:dpriestbrown@bellsouth.net">dpriestbrown@bellsouth.net</a>	2021-06-01 17:55:57	approved	
Tracy	Smith	<a href="mailto:mmsmuscular@gmail.com">mmsmuscular@gmail.com</a>	2021-06-01 18:00:56	approved	
Percy	Butler	<a href="mailto:percydecatour@aol.com">percydecatour@aol.com</a>	2021-05-31 20:46:48	approved	
Joel	Thibodeaux	<a href="mailto:jbthibodeaux@gmail.com">jbthibodeaux@gmail.com</a>	2021-06-01 18:05:35	approved	
Cecile	Bryant	<a href="mailto:cecilebryant1@gmail.com">cecilebryant1@gmail.com</a>	2021-06-01 18:12:05	approved	
Michele	Battle	<a href="mailto:battlelawpc@gmail.com">battlelawpc@gmail.com</a>	2021-06-01 17:56:54	approved	
LaShawnda	Walker	<a href="mailto:lashawnda.walker9@gmail.com">lashawnda.walker9@gmail.com</a>	2021-06-01 18:10:13	approved	
Sharon	McPherson	<a href="mailto:sharon_mcperson@yahoo.com">sharon_mcperson@yahoo.com</a>	2021-06-01 13:38:23	approved	
Harold	Smith	<a href="mailto:famu4us@bellsouth.net">famu4us@bellsouth.net</a>	2021-05-31 19:09:41	approved	
Gabby Miles		<a href="mailto:gabbymiles706@gmail.com">gabbymiles706@gmail.com</a>	2021-06-01 18:10:21	approved	
Diane Robinson		<a href="mailto:dianemrobinson49@gmail.com">dianemrobinson49@gmail.com</a>	2021-06-01 16:39:52	approved	
Franklin Eaves		<a href="mailto:franklin2230038@yahoo.com">franklin2230038@yahoo.com</a>	2021-06-01 18:30:55	approved	
Danielle	Blumenthal	<a href="mailto:DLb@battlelawpc.com">DLb@battlelawpc.com</a>	2021-06-01 17:57:44	approved	
faye Coffield		<a href="mailto:faye@fayecoffieldinvestigations.com">faye@fayecoffieldinvestigations.com</a>	2021-06-01 18:15:51	approved	
Sandra	Willis	<a href="mailto:handsofjazz27@gmail.com">handsofjazz27@gmail.com</a>	2021-05-31 13:55:23	approved	
Gabby	Miles	<a href="mailto:edwina328@gmail.com">edwina328@gmail.com</a>	2021-06-01 17:50:22	approved	
		<a href="mailto:mlb@battlelawpc.com">mlb@battlelawpc.com</a>	2021-06-01 17:56:56	approved	
Erma	Brown	<a href="mailto:erma324@gmail.com">erma324@gmail.com</a>	2021-06-01 18:20:37	approved	
Jazzmin Randall Cobble		<a href="mailto:jazzmin.cobble@gmail.com">jazzmin.cobble@gmail.com</a>	2021-06-01 18:07:34	approved	
Aaron	Rissler	<a href="mailto:aaronrissler@icloud.com">aaronrissler@icloud.com</a>	2021-06-01 18:05:43	approved	
Carl	Manson	<a href="mailto:crlmanson@aol.com">crlmanson@aol.com</a>	2021-05-28 16:51:54	approved	
Clara	DeLay	<a href="mailto:lithonialawyer@gmail.com">lithonialawyer@gmail.com</a>	2021-06-01 17:54:05	approved	
Doris	Johnson	<a href="mailto:dorisej@bellsouth.net">dorisej@bellsouth.net</a>	2021-05-27 23:56:39	approved	
Bernard	Knight	<a href="mailto:bknightattorney@att.net">bknightattorney@att.net</a>	2021-06-01 18:12:54	approved	
T.PG.		<a href="mailto:togmO3@gmail.com">togmO3@gmail.com</a>	2021-06-01 18:04:45	approved	
Aristo 5		<a href="mailto:Isharpefranklin@gmail.com">Isharpefranklin@gmail.com</a>	2021-05-27 18:17:06	approved	
Staci Hopkins		<a href="mailto:shopkins1975@gmail.com">shopkins1975@gmail.com</a>	2021-06-01 17:54:47	approved	
Joysjazz		<a href="mailto:1joysjazz@gmail.com">1joysjazz@gmail.com</a>	2021-05-30 13:09:25	approved	
Pat		<a href="mailto:pwil789@comcast.net">pwil789@comcast.net</a>	2021-06-01 05:41:09	approved	
Stacey	Thibodeaux	<a href="mailto:staceythibodeaux@gmail.com">staceythibodeaux@gmail.com</a>	2021-06-01 18:01:11	approved	

### Glencroft Community Meeting Registration Report

First Name	Last Name	Email	Registration Time	Approval Status	
Wanda	McKenzie	<a href="mailto:DMack71@yahoo.com">DMack71@yahoo.com</a>	2021-05-26 18:31:36	approved	
Tracy	Smith	<a href="mailto:mamuscular@gmail.com">mamuscular@gmail.com</a>	2021-06-01 19:13:34	approved	
Patsi Turner		<a href="mailto:turnerg1@comcast.net">turnerg1@comcast.net</a>	2021-06-01 18:49:49	approved	
Pat Coffee		<a href="mailto:coffee48@bellsouth.net">coffee48@bellsouth.net</a>	2021-06-01 18:52:30	approved	
Jazzmin Randall Cobble		<a href="mailto:jazzmin.cobble@gmail.com">jazzmin.cobble@gmail.com</a>	2021-06-01 18:06:46	approved	
Michele	Battle	<a href="mailto:battlelawpc@gmail.com">battlelawpc@gmail.com</a>	2021-06-01 19:09:21	approved	
Valorie		<a href="mailto:valoriemccoy@outlook.com">valoriemccoy@outlook.com</a>	2021-05-31 22:20:19	approved	
Diane Robinson		<a href="mailto:dianemrobinson49@gmail.com">dianemrobinson49@gmail.com</a>	2021-06-01 19:15:30	approved	
Aaron	Rissler	<a href="mailto:aaronrissler@icloud.com">aaronrissler@icloud.com</a>	2021-06-01 18:05:09	approved	
		<a href="mailto:mlb@battlelawpc.com">mlb@battlelawpc.com</a>	2021-06-01 19:09:25	approved	



### Woodgrove Community Meeting Registration Report

First Name	Last Name	Email	Registration Time	Approval Status	
Donna	Priest-Brown	<a href="mailto:dpriestbrown@bellsouth.net">dpriestbrown@bellsouth.net</a>	2021-06-03 18:00:20	approved	
Kathy		<a href="mailto:bollikat@yahoo.com">bollikat@yahoo.com</a>	2021-06-03 18:09:47	approved	
Lois Hyde		<a href="mailto:loiswhyde01@gmail.com">loiswhyde01@gmail.com</a>	2021-06-03 18:05:03	approved	
Samuel Long		<a href="mailto:lonsam0324@gmail.com">lonsam0324@gmail.com</a>	2021-06-02 15:18:24	approved	
Michele	Battle	<a href="mailto:battlelawpc@gmail.com">battlelawpc@gmail.com</a>	2021-06-03 18:01:06	approved	
LaShawnda	Walker	<a href="mailto:lashawnda.walker9@gmail.com">lashawnda.walker9@gmail.com</a>	2021-06-02 18:12:39	approved	
Mickey		<a href="mailto:starbord2562@gmail.com">starbord2562@gmail.com</a>	2021-06-03 18:12:48	approved	
Sharunda	Buchanan	<a href="mailto:sdb4@cdc.gov">sdb4@cdc.gov</a>	2021-05-28 10:38:09	approved	
Jean	Brooks-Eberhardt	<a href="mailto:jbjean7@gmail.com">jbjean7@gmail.com</a>	2021-06-01 19:44:56	approved	
Danielle	Blumenthal	<a href="mailto:Dlb@battlelawpc.com">Dlb@battlelawpc.com</a>	2021-06-03 17:55:14	approved	
Alisa	Clark	<a href="mailto:alisaclark@glorypcs.com">alisaclark@glorypcs.com</a>	2021-05-28 09:02:45	approved	
Luther	Tookes	<a href="mailto:luthertookes@bellsouth.net">luthertookes@bellsouth.net</a>	2021-06-03 13:43:38	approved	
		<a href="mailto:mlb@battlelawpc.com">mlb@battlelawpc.com</a>	2021-06-03 18:01:08	approved	
Barbara Senior		<a href="mailto:seniorbarbara133@gmail.com">seniorbarbara133@gmail.com</a>	2021-06-03 18:23:25	approved	
Galaxy S20+ 5G		<a href="mailto:robert3476@aol.com">robert3476@aol.com</a>	2021-05-26 20:14:46	approved	
Nijel	Bordenave	<a href="mailto:nbordenave@yahoo.com">nbordenave@yahoo.com</a>	2021-06-03 18:13:53	approved	
A Jackson		<a href="mailto:Arquidalebutler@yahoo.com">Arquidalebutler@yahoo.com</a>	2021-05-29 07:39:30	approved	
Jazzmin Randall Cobble		<a href="mailto:jazzmin.cobble@gmail.com">jazzmin.cobble@gmail.com</a>	2021-06-01 18:05:12	approved	
alecia washington		<a href="mailto:cityofhopeoutreach@yahoo.com">cityofhopeoutreach@yahoo.com</a>	2021-06-03 16:35:03	approved	
R Rasberry		<a href="mailto:rlrasberry@bellsouth.net">rlrasberry@bellsouth.net</a>	2021-06-03 18:25:43	approved	
Shanta Morris		<a href="mailto:smorris411@outlook.com">smorris411@outlook.com</a>	2021-06-03 18:38:24	approved	
Aaron	Rissler	<a href="mailto:aaronrissler@icloud.com">aaronrissler@icloud.com</a>	2021-06-01 14:30:30	approved	
Christine	Character	<a href="mailto:faithprinting123@gmail.com">faithprinting123@gmail.com</a>	2021-06-02 00:20:09	approved	
joyce		<a href="mailto:ja5233@yahoo.com">ja5233@yahoo.com</a>	2021-06-03 18:07:53	approved	
Carl	Manson	<a href="mailto:crlmanson@aol.com">crlmanson@aol.com</a>	2021-06-03 18:20:36	approved	

May 20, 2021

**RE: A Proposed Rezoning and Comprehensive Land Use Change for 3177 Panola Rd and 5207 Thompson Mill Rd.**

Dear Property Owner:

We would like to invite you to join our Zoom Video Meeting on **Tuesday, June 3, 2021**, from 6:00 pm to 7:00pm to discuss a proposed rezoning and land use amendment for the properties located at 3177 Panola Rd. and 5207 Thompson Mill Rd. My client, Apex Land Company, is seeking to develop a townhome project on the property.

Below are the meeting instructions. There are multiple ways for you to join the meeting, including via your computer, tablet, or cell phone, with or without video. If you are unable to make it, but would like to learn more, please contact our office at (404) 601-7616 ext. 7 or email us at [jtm@battlelawpc.com](mailto:jtm@battlelawpc.com) and we will send you a summary of the meeting.

**You are invited to a Zoom meeting.**

**When: June 3, 2021 06:00 PM Eastern Time (US and Canada)**

**Register in advance for this meeting:**

<https://otago.zoom.us/join>

**Meeting ID: 864 8203 1456**

**Passcode: 853279**

**After registering, you will receive a confirmation email containing information about joining the meeting.**

Please contact our offices if you have any questions regarding the meeting.

Sincerely,

*Michèle L. Battle*

Michèle L. Battle



## **Zoom Step by Step Instructions**

Go to <https://otago.zoom.us/join> and Enter the Meeting ID that you have been provided with in the appropriate field and click “Join” (the meeting ID will be a 9 digit or 10 digit number)

### **If joining from a mobile Device**

If you are joining from a mobile device (Android smartphone/tablet, Apple iPhone/iPad) then it will simply prompt you to download the Zoom Cloud Meeting app from the App/Play Store.

### **If joining from a computer**

When entering a Zoom meeting for the first time from a computer you may need to download a small application file. This process is easy to complete on all commonly used browsers. Google Chrome should automatically download the file.

Just before Entering the meeting you will be prompted to enter a display name. This name is simply to identify you in the meeting.

### **Join Audio via Computer**

You will then be prompted how you wish to join your audio. If you wish to join audio via the telephone, follow the instructions further down, otherwise simply select Join Computer by Audio.

### **Join Audio via Telephone**

Dial in using (646) 558-8656, after entering the Meeting ID, you will be prompted to enter your Participant ID/Password. Simply enter this number followed by # and the video audio will then be synchronized.

### **Raising Your Hand**

As the non-speaker if you wish to ask a question or make a point during the meeting it’s good protocol to use the “Raise Hand” facility.

If the tool bar is not showing at the bottom of the Zoom window, place your cursor over the Zoom window so it appears and select the “Participants” icon.

A window listing other participants will appear, there is also a “Raise Hand” icon, click the icon to make it known to the Host that you would like to raise your hand.

If you wish to lower your hand, click the “Lower Hand” icon that will have replaced the “Raise Hand” icon.

### **Leave Meeting**

To leave a meeting from Zoom on your desktop, select “End Meeting” then “Leave Meeting.”

**Attachment 5, RZ-21-005:**

Zoning Agreement between Panola Mills HOA and the property owners of subject property, which includes the conditions of zoning placed on the property by DeKalb County in 2008 (Z-08-15000)



Filed and Recorded:  
4/16/2009 4:16:41 PM  
Linda Carter  
Clerk of Superior Court  
DeKalb County, Georgia

Space Above Reserved for Recording Data

After Recording, return to:  
Michèle L. Battle  
Smith, Gambrell & Russell, LLP  
Promenade II, Suite 3100  
1230 Peachtree St., N.E.  
Atlanta, GA 30309

Cross Reference to Owner Deed:  
Deed Book: 5492  
Page: 684

**ZONING AGREEMENT**

This Zoning Agreement (the "Agreement") is entered into this \_\_\_ day of February, 2009, by and between PANOLA MILLS HOMEOWNERS ASSOCIATION, INC., a Georgia nonprofit corporation (the "Association") and M.S. Zakaria, Trustee for M.S. Zakaria M.D., P.C., Employers Profit Sharing Trust; Mohammad Al-Mulki, Trustee for Rania Al-Mulki; Mohammad Al-Mulki, Trustee for Izat Al-Mulki; Mohammad Al-Mulki, Trustee for Dania Al-Mulki and Amin Haffar, (collectively "Owner")

As of the date of execution of this Agreement, the parties listed as the "Owner" have fee simple title to the Zoning Tract and the Residential Tract. This Agreement is made in contemplation of the sale of the Zoning Tract to Cornerstone Development Partners, LLC or another development company, with the Owner retaining the Residential Tract

**WITNESSETH**

If the rezoning of the Zoning Tract is approved by the DeKalb County Board of Commissioners, the Association agrees that the Owner will be bound by the following:

WHEREAS, Owner owns approximately 5.190 acres of land (the "Zoning Tract") lying and being in Land Lots 22 and 43 of the 16th District of DeKalb County, Georgia as more particularly described in Exhibit "A" attached hereto labeled Tract 2 and by this reference incorporated herein; and

WHEREAS, Owner owns approximately 4.39 acres of land (the "Residential Tract") lying and being in Land Lot 22 of the 16th District of DeKalb County, Georgia as more particularly described in Exhibit "B" attached hereto labeled Tract 1 and by this reference incorporated herein; and

LIT:1057150.4

WHEREAS, Owner filed with the DeKalb County Planning Department (the "Planning Department") Rezoning Application No. Z-08-15000 (the "Rezoning Application") to rezone the Zoning Tract from R-100 to NS; and

WHEREAS, Owner and the Association desire to enter into this Agreement governing the development of both the Zoning Tract and the Residential Tract (the "Subject Properties").

NOW, THEREFORE, for and in consideration of the agreement of Owner to amend its Rezoning Application (and future applications) as hereinafter provided to incorporate certain conditions and in consideration of the mutual benefits flowing between the parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of said parties, Owner hereby agrees as follows:

1. Use of Zoning Tract. The approval of the Rezoning Application by the DeKalb County Board of Commissioners shall be subject to certain conditions of zoning, which are contained in Exhibit "D" attached hereto and by this reference incorporated herein (the "Zoning Conditions"). In addition, the parties have agreed that when the Zoning Tract is developed and the sidewalks along Panola Rd are installed, the owner of record at the time that the Zoning Tract is developed will, at its cost, extend the sidewalks along Panola Road to the entrance of the Association's subdivision. Further, when the Zoning Tract is developed, as part of the landscaping design for its frontage, the owner of record at the time that the Zoning Tract is developed agrees to spend up to \$5000.00 to assist the Association in improving the landscape design at the entrance to their subdivision as shown on Exhibit "C" attached hereto and by this reference incorporated herein (the "Panola Mills Entrance Landscape Plan"). Notwithstanding anything herein to the contrary, the terms and conditions set forth in this paragraph 1 regarding the use of the Zoning Tract, shall terminate automatically and become immediately null and void and of no force and effect if subsequent to the approval of the Rezoning Application the Zoning Tract is rezoned to any residential zoning district under the DeKalb County Zoning Ordinance, or under the zoning ordinance of the then applicable governing authority.
2. Use of Residential Tract. Owner has agreed and hereby does agree that the use of the Residential Tract shall be limited to residential dwellings and neither Owner nor any developer of the Residential Tract shall seek to rezone the Residential Tract to any non-residential zoning classification. The foregoing use restriction does not exclude the use of the Residential Tract for non-residential uses permitted in residential dwellings by Special Land Use Permit, Special Exception or otherwise, under the residential zoning district then applicable to the Residential Tract.
3. Covenant Running with the Land. The parties have agreed that the uses of the Subject Properties are central to the entry of this Agreement by the Association. Upon execution of this Agreement and approval of the Rezoning Application, subject to the Zoning Conditions and any other additional conditions approved by the DeKalb County Board of Commissioners, Owner shall record this Agreement as a covenant on its title to the Subject



Properties. This Agreement shall be recorded so as to run with and bind the Subject Properties and any successors, successors-in-title, legal representatives and assigns of Owner and shall run to the benefit of and be enforceable by the Association. This Agreement is deemed a covenant and shall extend for twenty (20) years, and shall renew itself automatically every twenty (20) years, unless within sixty (60) days prior to the expiration of such twenty (20) year term, the Association elects to terminate this Agreement by recording in the DeKalb County, Georgia real property records written notice of the Association's election to terminate the Agreement. Notwithstanding anything herein to the contrary, this entire Agreement shall terminate automatically and become immediately null and void and of no force and effect upon: (i) the denial of the Rezoning Application by the DeKalb County Board of Commissioners, (ii) the voluntary dissolution of the Association, or (iii) twenty-four (24) months after the date that the Association is administratively dissolved by the Georgia Secretary of State's Office.

4. Breach. If Owner breaches any of the terms or conditions set forth herein, the Association shall have the right to give Owner written notice of such breach, simultaneously with filing a complaint with the DeKalb County Code Enforcement Department. If Owner fails to cure such breach within thirty (30) days after receipt of such notice, then the Association shall have the right to: (i) enforce the covenants and agreements hereunder by injunction, specific performance or other appropriate proceedings in law or in equity in the Superior Court of DeKalb County, Georgia, or through mediation, to which Owner hereby consents.
5. Notices. (a) All notices shall be in writing and shall be deemed to have been properly given (i) when delivered in person, or (ii) one (1) business day, after deposit with Federal Express, Express Mail, or other overnight delivery service for next day delivery, addressed to the appropriate party at the address set forth below:

Contact info for Owner at the time of this Agreements Execution

M.S Zakeria, M.D,  
1590 Bethsaida Rd  
Riverdale Ga. 30296

Mohammad Al-Mulki, M.D  
830 Heards Ferry Rd  
Atlanta, Ga. 30328-4726

With a Copy

to: Any Owner of Record at time of Notice if different from above

With a Copy  
to:

Cornerstone Development Partners  
Mark Renier  
3625 Cumberland Boulevard  
Suite 540  
Atlanta, GA 30339

With a copy  
to:

Michèle L. Battle, Esq.  
Land Use Group  
Smith, Gambrell & Russell, LLP  
1230 Peachtree St., N.E.  
Promenade II, Suite 3100  
Atlanta, GA 30309

Association: Jackie Johnson  
5002 Panola Mill Drive  
Lithonia, GA 30038

Rejection or other refusal by the addressee to accept, or the inability of the courier service to deliver because of a change of address of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address to which notices to it shall be sent by giving to the other party at least ten (10) days prior notice of the change of address.

(b) In an effort to keep the line of communication open between the Zoning Tract owner, the Association and the surrounding communities, Owner shall notify the Association in writing (the "Change of Developer Notice") of any conveyance of all or any portion of the Zoning Tract to a successor owner and/or developer of the improvements to be developed on the Zoning Tract. The Change of Developer Notice shall include contact information for the new owner/developer, including, name of the new owner or developer, address, telephone number, fax number and e-mail address and the name of the primary contact person for such owner or developer.

6. MISCELLANEOUS.

- a. This Agreement shall be binding on the successors, successors-in-title, legal representatives and assigns of Owner. Time is of the essence. This Agreement shall survive the sale of all or a portion of the Subject Properties.
- b. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts together shall constitute one and the same instrument.

- c. No representations that are not contained herein shall be binding upon the parties. Each signatory hereto is authorized to execute this Agreement.
- d. The introductory paragraphs to this Agreement are incorporated herein by this reference.
- e. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and shall be controlled in all respects by the laws of the State of Georgia. Notwithstanding anything herein, no modification of this Agreement, shall have any force or effect except where agreed in writing, signed by all parties hereto.
- f. Should any part of this Agreement be declared invalid or void by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion or portions hereof, and such remaining portion or portions shall be deemed to be in full force and effect.
- g. The preambles of this Agreement are incorporated into this Agreement and made a part hereof as if fully restated herein in their entirety. A waiver by any of the parties hereto of any breach hereof shall not operate nor be construed as a waiver of any subsequent breach by any party.
- h. As it is the intent of the parties hereto that this Agreement be enforceable, the parties hereto do hereby waive, surrender and forego any defense which might prevent the enforcement of this Agreement as a covenant, including, but not limited to the following: any defense regarding any lack of privity, any issue of standing, or consideration. The parties further acknowledge the ability, if necessary, to enforce this Agreement as a covenant through privity of conscience.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

**OWNER:**

Signed, sealed and delivered in  
the presence of:

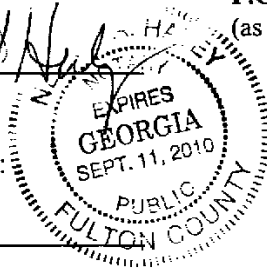
Karen B. Peritt  
Witness

M.S. Zakaria

**M.S. Zakaria, Trustee for M.S. Zakaria M.D.,  
P.C., Employers Profit Sharing Trust**  
(as to an undivided 50% interest)

Nedon A. Haley  
Notary Public

My Commission Expires:



[Notary Seal]

Signed, sealed and delivered in  
the presence of:

Karen B. Peritt  
Witness

Mohammad Al-Mulki Trustee

**Mohammad Al-Mulki, Trustee for Rania Al-Mulki**  
(as to an undivided 21% interest)

Nedon A. Haley  
Notary Public

Mohammad Al-Mulki, Trustee

**Mohammad Al-Mulki, Trustee for Izat Al-Mulki (as  
to an undivided 12% interest)**

My Commission Expires:

Nedon A. Haley  
[Notary Seal]

Mohammad Al-Mulki Trustee

**Mohammad Al-Mulki, Trustee for Dania Al-Mulki (as to  
an undivided 12% interest)**

Signed, sealed and delivered in  
the presence of:

Karen B. Peritt  
Witness

Mohammad Al-Mulki, POA

**Amin Haffar, Individually**  
(as to an undivided 5% interest)

Nedon A. Haley  
Notary Public

My Commission Expires:

[Notary Seal]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

**ASSOCIATION:**

Signed, sealed and delivered in the presence of:

PANOLA MILLS HOMEOWNERS ASSOCIATION, INC., a Georgia nonprofit corporation

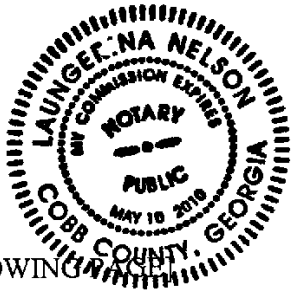
Britter  
Witness

By: Jackie Johnson  
Jackie Johnson, Its President

Laungerine Nelson  
Notary Public

My Commission Expires: May 10 2010

\_\_\_\_\_  
[Notary Seal]



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

**EXHIBIT "A"**  
**Legal Description**

**Zoning Tract**

All that tract or parcel of land lying and being in Land Lots 22 and 43, 16th District of DeKalb County, Georgia, and being more particularly described as follows:

Beginning at a right of way monument found at the northwest end of the mitered intersection of the south right of way of Thompson Mill Road (80 foot right of way) and the northwest right of way of Panola Road (variable right of way);  
thence along said mitered right of way intersection South 32 degrees 35 minutes 30 seconds East, a distance of 49.14 feet to a right of way monument;  
thence along the northwest right of way of Panola Road South 15 degrees 01 minutes 08 seconds West, a distance of 155.05 feet to a point;  
thence continuing along said right of way North 74 degrees 58 minutes 52 seconds West, a distance of 20.00 feet to a point;  
thence continuing along said right of way South 15 degrees 01 minutes 08 seconds West, a distance of 25.00 feet to a right of way monument;  
thence continuing along said right of way South 74 degrees 58 minutes 52 seconds East, a distance of 20.00 feet to a point;  
thence continuing along said right of way South 15 degrees 01 minutes 08 seconds West, a distance of 290.09 feet to a point;  
thence continuing along said right of way South 15 degrees 01 minutes 08 seconds West, a distance of 41.56 feet to a point;  
thence leaving said right of way South 89 degrees 20 minutes 58 seconds West, a distance of 326.41 feet to a point;  
thence North 01 degrees 15 minutes 57 seconds West, a distance of 424.66 feet to a point;  
thence North 89 degrees 11 minutes 24 seconds West, a distance of 74.99 feet to a point;  
thence North 01 degrees 15 minutes 57 seconds West, a distance of 120.10 feet to a point on the south right of way of Thompson Mill Road;  
thence along said right of way South 89 degrees 17 minutes 52 seconds East, a distance of 50.03 feet to a point;  
thence continuing along said right of way South 89 degrees 17 minutes 52 seconds East, a distance of 469.55 feet to a right of way monument;  
said point being the POINT OF BEGINNING.  
Said tract or parcel containing 226,065 square feet or 5.190 acres.

**EXHIBIT "B"****Legal Description****Residential Tract**

All that tract or parcel of land lying and being in Land Lots 22, 16th District of Dekalb County, Georgia, and being more particularly described as follows:

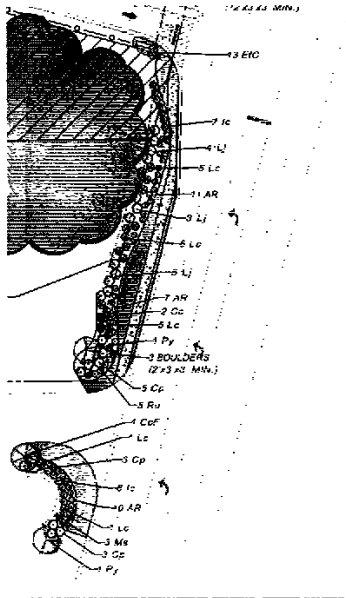
Commencing at a right of way monument found at the northwest end of the mitered intersection of the south right of way of Thompson Mill Road (80 foot right of way) and the northwest right of way of Panola Road (variable right of way);  
thence along the south right of way of Thompson Mill Road North 89 degrees 17 minutes 52 seconds West, a distance of 469.55 feet to a point;  
thence continuing along said right of way North 89 degrees 17 minutes 52 seconds West, a distance of 50.03 feet to a point;  
said point being the POINT OF BEGINNING;  
thence leaving said right of way South 01 degrees 15 minutes 57 seconds East, a distance of 120.10 feet to a point;  
thence South 89 degrees 11 minutes 24 seconds East, a distance of 74.99 feet to a point;  
thence South 01 degrees 15 minutes 57 seconds East, a distance of 424.66 feet to a point;  
thence South 89 degrees 20 minutes 58 seconds West, a distance of 352.87 feet to a 3/8" rebar;  
thence North 03 degrees 50 minutes 35 seconds West, a distance of 554.66 feet to a 1/2" crimped top pipe on the south right of way of Thompson Mill Road;  
thence along said right of way South 89 degrees 17 minutes 52 seconds East, a distance of 303.03 feet to a point;  
said point being the POINT OF BEGINNING.

Said tract or parcel containing 191,634 square feet or 4.40 acres and being more particularly shown on a Zoning Plat for Cornerstone Development Partners, LLC by Armstrong Land Surveying, Inc. dated July 2, 2008, last revised September 19, 2008, and being the portion of Tract 2 outside of the limits of rezoning.



EXHIBIT "C"

**"Panola Mills Entrance Landscape Plan"**



**PLANT LIST**

KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	MATURE HT
TREES						
Cd	12	<i>Carya carolinensis</i> 'Forest Pansy'	FOREST PANSY REDBUD	3" CAL.	REFER TO PLAN	20-30'
Py	7	<i>Prunus Y yedoensis</i>	YOSHINO CHERRY	3" CAL.	REFER TO PLAN	20-30'
Ge	8	<i>Quercus shumardii</i>	SHUMARD OAK	3" CAL.	REFER TO PLAN	40-60'
Op	10	<i>Ulmus parvifolia</i>	LACESBARK ELM	3" CAL.	REFER TO PLAN	40-60'
SHRUBS						
AR	89	<i>Abelia chinensis</i> 'Rose Creek'	ROSE CREEK ABELIA	3 GAL.	3'-0" O.C.	
Gc	5	<i>Chamaecyparis obtusa</i> 'Gracile'	GLENDEN HINOKI	6'-6" HT.	REFER TO PLAN	
Op	17	<i>Chamaecyparis pisifera</i> 'Nana Mops'	GOLDEN MOP CYPRESS	3 GAL.	5'-0" O.C.	
Lc	104	<i>Ilex cornuta</i> 'Catesba'	CARISSA HOLLY	18-24" HT.	3'-6" O.C.	
LO	11	<i>Lagerströmia 'GAMMAD II'</i>	RASPBERRY DAZZLE CREPE MYRTLE	2-3" HT.	4'-0" O.C.	
Lj	12	<i>Ligustrum japonicum</i> 'Recurvifolium'	RECURVE LEAF STRAIN	3-4" HT.	6'-0" O.C.	
Lc	88	<i>Loropetalum chinensis</i> var. 'rubrum Ruby'	RUBY LOROPETALUM	2-3" HT.	4'-0" O.C.	
Ms	28	<i>Miscanthus sinensis</i> 'Gracelinus'	MAIDEN GRASS	3 GAL.	5'-0" O.C.	
NG	25	<i>Nandina domestica</i> 'Gulf Stream'	GULF STREAM NANDINA	18-24" HT.	3'-0" O.C.	
Rj	54	<i>Rhoeo spathulata</i> 'Georgia Petite'	GEORGIA PETITE INDIAN PAWTHORN	12-18" HT.	3'-0" O.C.	
GROUNDCOVER						
EC	59	<i>Eucnymus fortunei</i> var. <i>coloratus</i>	WINTERCREEPER EUCNYMUS	1 GAL.	2'-0" O.C.	
ANNUALS						

**EXHIBIT "D"**

**Conditions of Zoning**

**(Z-08-15000)**

**Dated 12/04/08**

Special Conditions. As of the date of execution of this Agreement, the parties listed as the "Owner" have fee simple title to the Zoning Tract and the Residential Tract. This Agreement is made in contemplation of the sale of the Zoning Tract to Cornerstone Development Partners, LLC ("Purchaser") with the Owner retaining the Residential Tract.

Notwithstanding anything herein to the contrary, the party nominally listed as "Owner" shall have absolutely no obligations under paragraph 1 of this Agreement and any notice affecting the Residential Tract shall be sent to M. S. Zakaria, M.D., 1590 Bethsaida Road, Riverdale, GA 30296.

A NH 1939135 v1  
2908346-000001 2/4/2009

**ZONING CONDITIONS (Z-08-15000)**  
**Dated 12/04/08**

1. The Subject Property shall be developed as a retail or office or restaurant center substantially similar to the concept plan dated July 7, 2007, subject to modifications and eliminations approved by the DeKalb County Planning Department, and prepared by LAI Engineering, Job No.: 8193PROJ (the "Site Plan"), a copy of which was submitted to the DeKalb County Planning and Development Department on December 4, 2008 and is attached hereto as Exhibit "A" and by this reference incorporated herein. The development on the Subject Property shall be limited to buildings with a total square footage not to exceed 25,000 sq. ft.
  
2. While the landowner has pursued the much lighter zoning designation of NS (Neighborhood Shopping) instead of the more intense C1 designation, the landowner has agreed to further restrict the NS allowable uses. All of the following uses A-G are allowed under the NS designation. However, the landowner has agreed that any of the uses below that have a strike through will be prohibited uses. All other uses A – G below without a strike through will be the allowable uses.
  - a. ~~Animal hospital, veterinary clinic, pet supply store, and animal grooming shop;~~
  - b. Art Gallery and art supply store;
  - d. ~~Child day care center;~~
  - e. Office uses as follows:
    - (1) Accounting office;
    - (2) Engineering and architectural office;
    - (3) Financial services office;
    - (4) Insurance office;
    - (5) Legal office;
    - (6) Medical office;
    - (7) Real estate office;
  - f. ~~Recreational facilities where such activities are wholly enclosed within a building;~~
  - g. Restaurants, but not including drive-through restaurants; **The Subject Property will not lease space to a "restaurant" tenant that in Owners's reasonable judgment is inconsistent with restaurants typically found in first class shopping centers. For example, no pizza take out only, Chinese take out only, or Mexican take out only restaurants will be permitted. Furthermore, those allowable restaurants tenants will occupy no less than 1,000 square feet and such restaurants whose primary use is for the sale of lunch and dinner food items will be permitted so long as its take out sales do not exceed 50% of its total sales.**

**Furthermore, if there are any freestanding restaurants located within Subject Property, they will occupy no less than 3,500 SF and will have no less than 50 seats.**
  - h. ~~Place of worship~~

LIT1057245.2

- i. Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:
- (1) Apparel and accessory store; with the exception that Jean Stores or athletic apparel/shoe stores will be prohibited
  - (2) Book, greeting card and stationary store;
  - (3) Camera and photographic supply store;
  - (4) ~~Convenience store;~~
  - (5) Florist;
  - (6) Food stores, including bakeries
  - (7) Gift novelty and souvenir stores, excluding any dollar store (i.e., Dollar General, Family Dollar, Dollar Tree, 99 Cent Stores or other similar store);
  - (8) ~~Hardware store;~~
  - (9) Hobby, toy and game store; with the exception that electronic video game stores will be prohibited
  - (10) ~~Jewelry store;~~
  - (11) Music and musical equipment store;
  - (12) ~~News dealers and newsstand;~~
  - (13) Office supplies and equipment store
  - (14) Pharmacy, including convenience items;
  - (15) Quick copy printing store;
  - (16)
  - (17) Sporting goods and bicycle sale;
  - (18) ~~Variety store;~~
  - (19) ~~Video tape sales and rental store;~~
- f. Services, personal, as follows:
- (1) ~~Barbershop, beauty shop, and similar personal service establishments;~~
  - (2) ~~Coin-operated laundry and dry cleaning store;~~
  - (3) ~~Laundry and dry cleaning establishment and pickup station;~~
  - (4) ~~Personal care home, congregate;~~
  - (5) ~~Personal care home, family;~~
  - (6) ~~Personal care home, group;~~
  - (7) ~~Personal care home, registered;~~
  - (8) Day spas offering personal services such as massages and skin treatments, as well as other personal care services which may include hair and nail care.
  - (9) Photographic studios.
- g. Services, repair, as follows:
- (1) ~~Jewelry repair store;~~
  - (2) ~~Shoe repair store.~~

3. Accessory uses and structures allowed on the Subject Property shall consist of all accessory uses and structures allowed within the NS Zoning District as enumerated in DeKalb County Zoning Code Sec. 27-559.
4. In order to be clear about other uses **not permitted** in NS and thus this property, the following uses shall also be strictly prohibited on the Subject Property;

- a. Electronic game playing centers.
  - b. Adult entertainment centers.
  - c. Adult novelty stores.
  - d. Pawn shops.
  - e. Pool halls.
  - f. Tattoo parlors.
  - g. Individual barbershops and beauty salons, but not businesses operating as a day spa offering two (2) or more of the individually prohibited service establishments, along with massages, skin treatments, etc.
  - h. Liquor store, spirits wholesale or retail, and wine shops. Notwithstanding the foregoing, this condition shall not prevent liquor, wine, beer or other spirits from being sold in restaurant(s) on the Subject Property.
  - i. Rental stores leasing furniture, trucks, tools and/or equipment (excluding stores lasing items used for the improvement of physical fitness and health).
  - j. Automobile, boat, and trailer sales and service (excluding sale or leasing of self propelled water craft, like canoes).
  - k. Car title offices.
  - l. Farmers' or flea markets, defined as an occasional or periodic market held in an open area or structure where individual non-tenant sellers offer goods to the public.
5. No outdoor storage of merchandise will be permitted within the development, and no outdoor vending machines or supplies will be permitted within the development.
6. There shall be designated bicycle parking.
7. No exposed neon or box signs shall be permitted on the exterior of the buildings.
8. All four sides of buildings on the Subject Property shall consist of brick, stone, stucco or glass (including metal and glass store fronts and/or curtain wall systems). E.I.F.S., painted dimensioned wood, cement material (such as hardieplank), metal panels, colored precast concrete, cast stone, architectural blocks and/or cedar shake may be used as an accent material only, not to exceed 20% of the surface area. The building façade plans to be substantially similar to the elevations attached hereto as Exhibit "B" subject to modifications as some national restaurants and other retailers may require.
9. The common areas within the development shall be kept and maintained in first class order and repair as compared to any other first class mixed use development similar to the caliber, type and character of the development on the Subject Property and located in the general area. A Property

Owners Association ("POA") shall be created and shall assume maintenance responsibilities for the Subject Property's common area once the development is completed.

10. As shown on the Landscape Plan dated July 7, 2008 prepared by LAI, Engineering Job NO.: 8193PROJ attached hereto as Exhibit "C", the Panola Rd and Thompson Mill Rd frontages shall be heavily landscaped with flowering trees, shrubs, and perennials. Developer will also agree to an improved landscape strip in the right of way outside the north and east property lines to the curb line of Panola Rd and Thompson Mill Rd and in order to soften the view of the parking fields, developer will create a landscaped berm along Panola Rd and Thompson Mill Road frontages as topography allows. Once planted, developer shall be responsible for the maintenance of planted materials within the limits of its property for a period of 24 months from the date a Land Disturbance Permit is issued for development of the project, and shall replace any diseased or dead landscape material as needed. After this 24 month period, the obligation and financial responsibility to maintain landscaping shall be imposed upon the mandatory POA established to maintain all common areas of the Subject Property.
11. Free standing signage along the road frontage shall be monument style with sign bases constructed of brick, stone or stucco finishes/veneers in compliance with all other standards of Chapter 21, Sign Regulations.
12. Any exterior lights, including building lights, walkway lighting, safety/security lights and parking lot lights will be screened, shielded, and/or shaded so as to minimize glare and the casting of light outside the new development. No lighting will bleed or shine onto neighboring properties. The west and south lighting of the building will be implemented with wall pack fixtures. Front lighting will be implemented with shoebox or decorative type fixtures with low (e.g. 20 foot) lighting standards. Gooseneck and "Historical period" lighting fixtures will be incorporated in building and parking lot design.
13. Outdoor seating shall be allowed in the front or side of restaurant uses..
14. Detention structures on the Subject Property shall conform to all DeKalb County Code requirements and shall reduce the current run-off rate by 10%. Further, draining improvements shall be subject to approval of the Development Division of the Planning and Development Department, and the Drainage Division of the Public Works Department. Class 3 concrete piping will run from detention facility and flow to allowable culvert on Thompson Mill Rd.
15. No construction shall take place Monday through Thursday, 7:00 p.m. – 7:00 a.m., Friday, 7:00 p.m. – Saturday, 9:00 a.m., and Saturday, 4:00 p.m. – 12:00 a.m. No construction will be allowed on Sunday. Inaudible interior construction will be allowed Monday through Thursday, 7:00 p.m. – 8:00 p.m. General construction activities shall be limited to Monday through Friday between the hours of 7:00 a.m. and 7:00 p.m. and Saturday between the hours of 9:00 a.m. and 4:00 p.m.
16. All utilities are to be underground.
17. Transportation and access improvements shall be subject to approval by the Development Division of the Planning and Development Department, and the Transportation Division of the Public Works Department.
18. Garbage dumpsters shall have sound-deadening gaskets and shall be located within a gated, masonry enclosure. Excluding special circumstances, Garbage dumpster pickup shall be between 6:30 a.m. and 8:00 p.m., Monday through Saturday.



19. The Site Plan may include portions of the Subject Property that will be subdivided in the future. Parts of the Subject Property may be conveyed as separate tracts and to separate owners with different ownership structures under the zoning plan. Should there be a conveyance of part of the Subject Property to different owners, all zoning conditions (and variances, if any) shall remain applicable to any portion of the conveyed property, regardless of what future person or entity owns the subdivided portion of the Subject Property. Conveyance of part of the Subject Property to different owners shall not require any changes to the zoning plan for the development (nor variances, if any). The newly-created property lines which arise from these conveyances are not required to observe setback, buffer or other requirements provided the building layout for the project as a whole continues to comply substantially with the Site Plan. The development at issue is a master planned development and shall be developed as such.
20. HVAC Root Top units will be screened from view and not visible from the ground or neighboring properties.
21. The owner of the Subject Property agrees to enter into a binding agreement with Panola Mills Subdivision and DeKalb County and a deed restriction will be placed on the balance of this 9.5 acre tract prohibiting any future retail/shopping center zoning.

**EXHIBIT "A" to ZONING CONDITIONS**

**SITE PLAN**



**EXHIBIT "B" to ZONING CONDITIONS**

**Elevation**

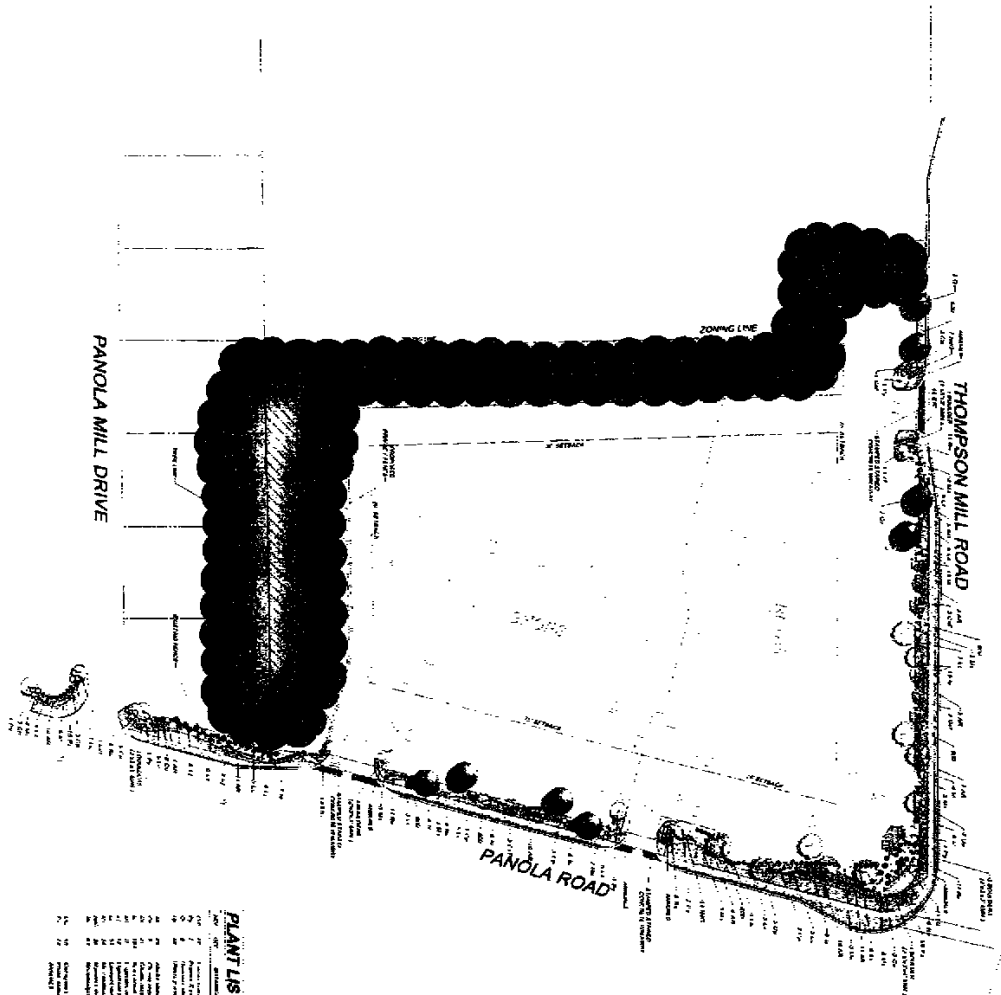


*Panola Mill Station*

DeKalb County, Georgia

**EXHIBIT "C" to ZONING CONDITIONS**

**Landscape Plan**

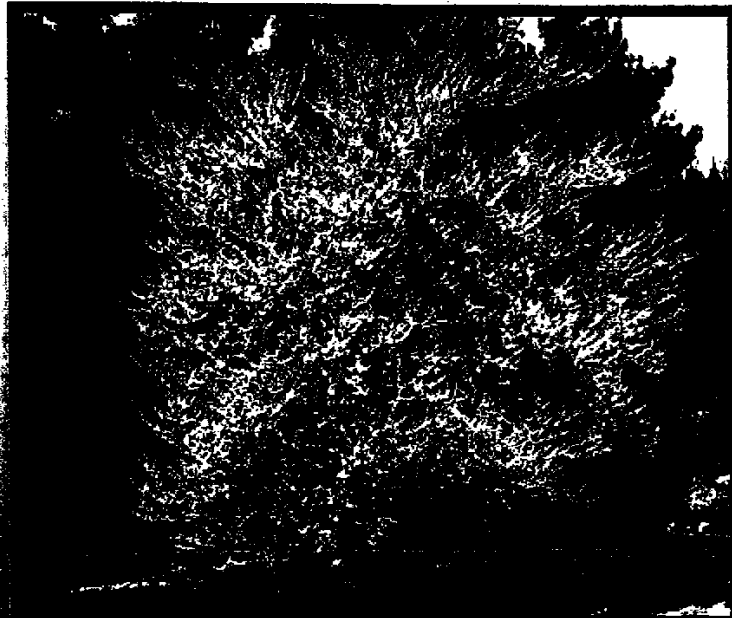


**PLANT LIST**

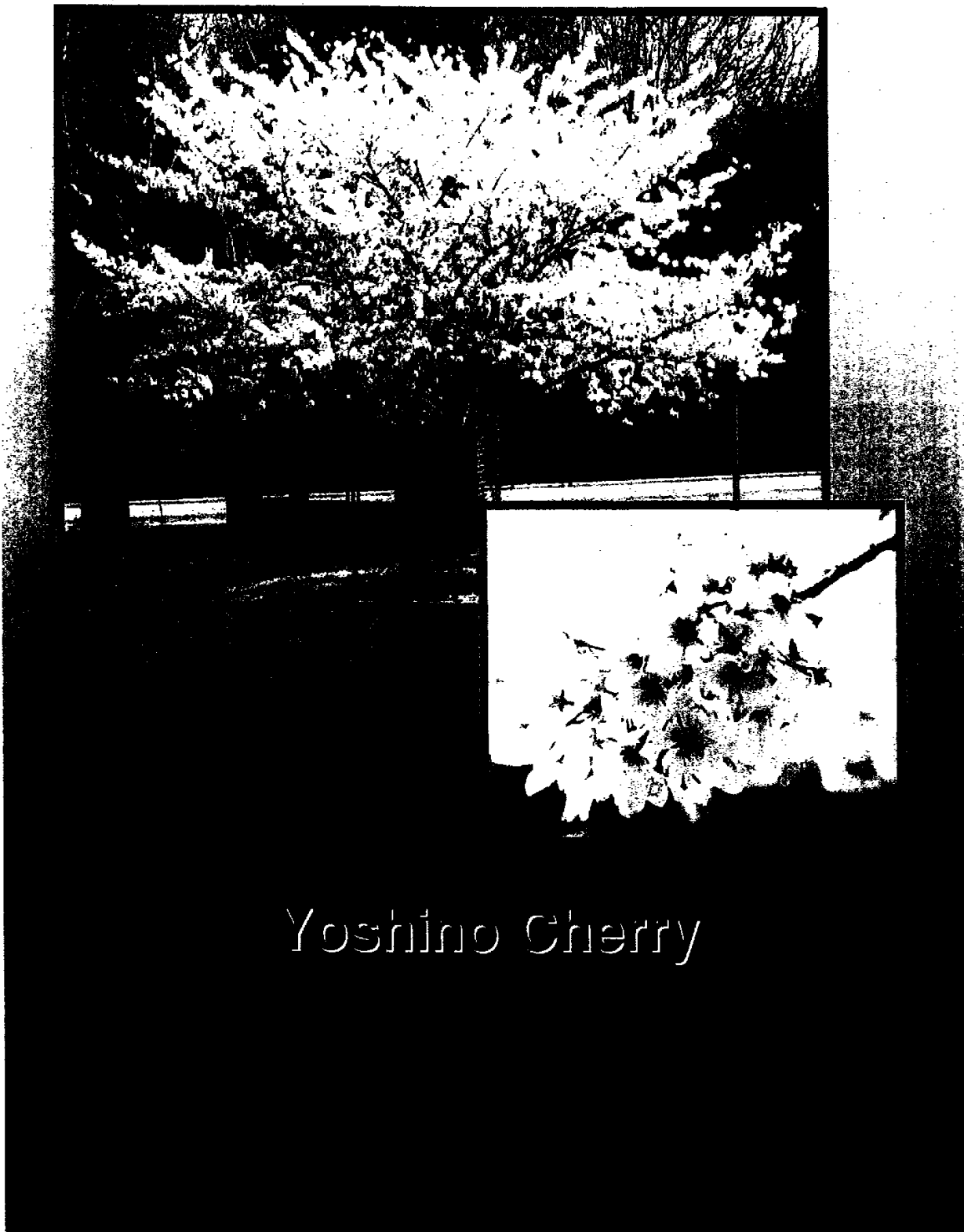
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<p>DATE: 01/11/2011          DRAWN BY: J. BARNETT          CHECKED BY: J. BARNETT          PROJECT: PANOLA ROAD RETAIL</p>	<p>LAI ENGINEERING</p>	<p>LAI ENGINEERING          PARKWAY CENTER -          1800 PARKWAY PL. - STE. 720          MARIETTA, GA 30067          PHONE: 770.423.0877          FAX: 770.423.1262          WWW.LAIENGINEERING.COM</p>	<p><b>PANOLA ROAD RETAIL</b>          2156 PANOLA ROAD          PREPARED FOR:          CONCRETE DEVELOPMENT PARTNERS, LLC          LITHONIA, GEORGIA</p>
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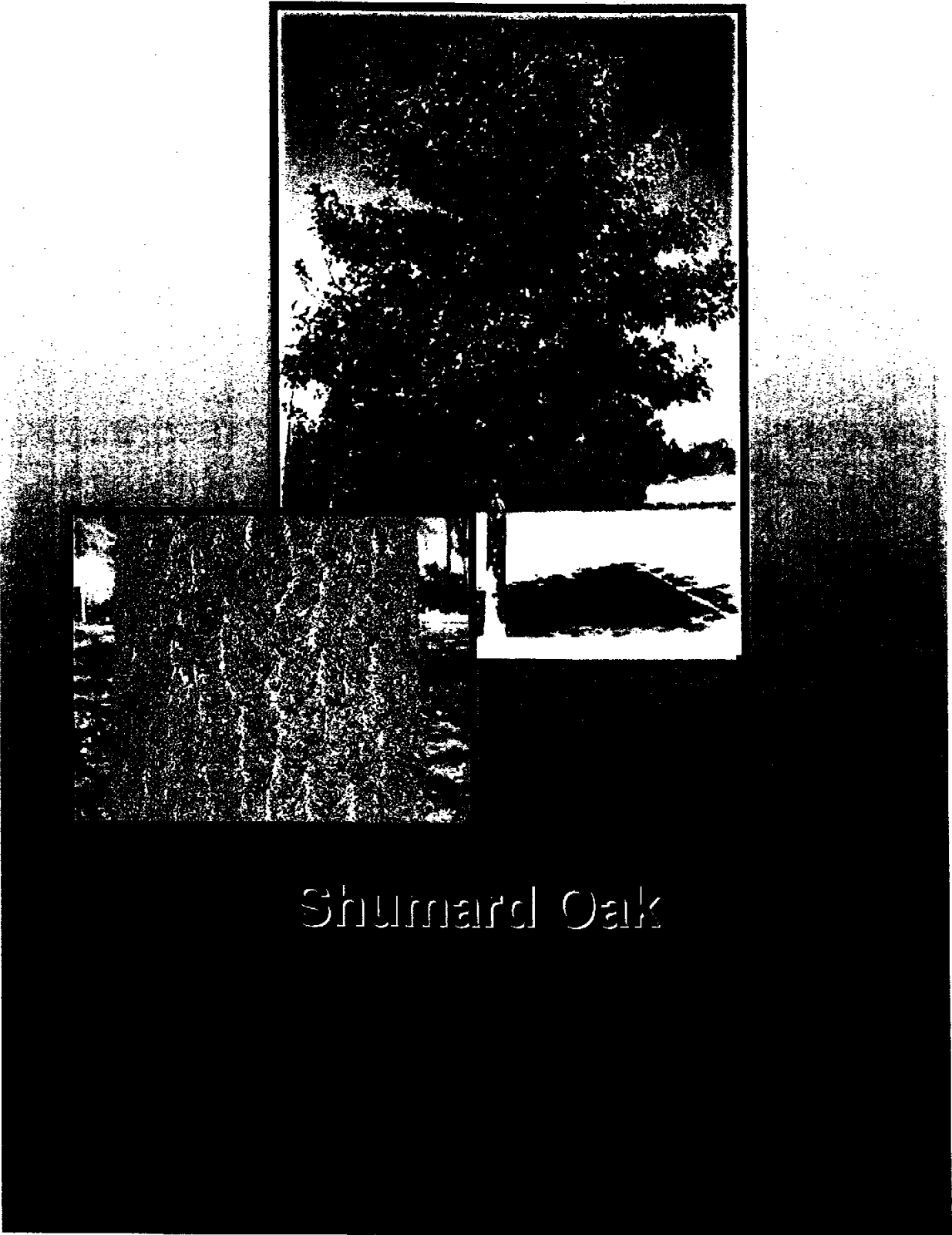


Forest Pansy Redbud



Yoshino Cherry





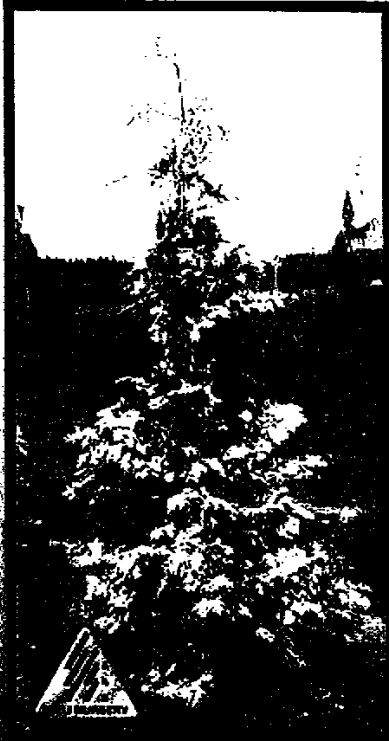
Shumard Oak



Lace Bark Elm



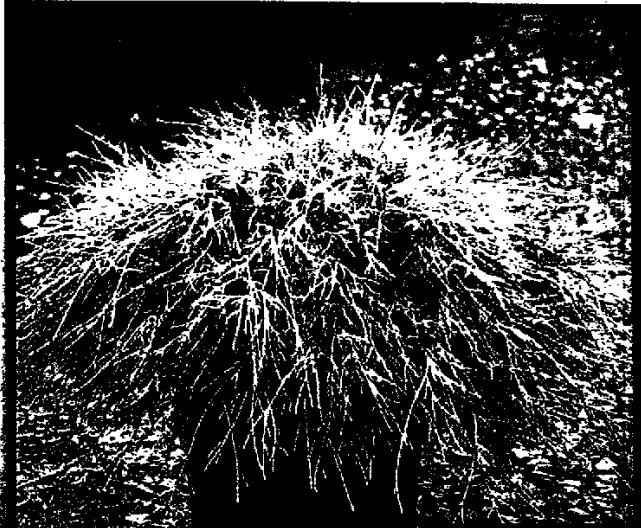
Rose Creek Abelia



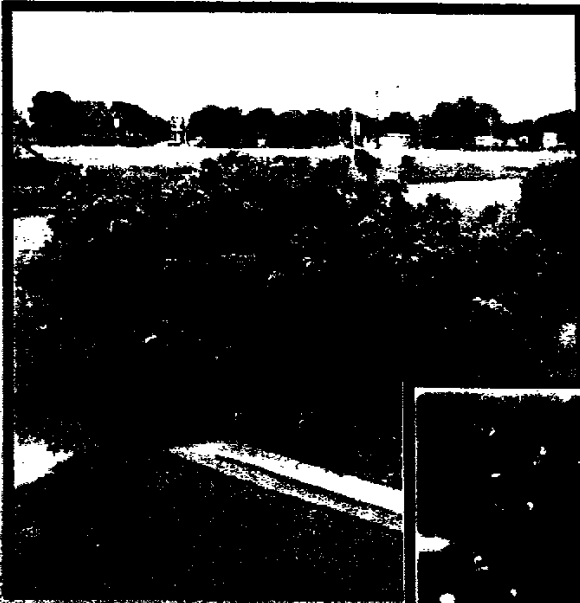
**Slender Hinoki**



**Carissa Holly**



Golden Mop Cypress



## Raspberry Dazzle Crepe Myrtle

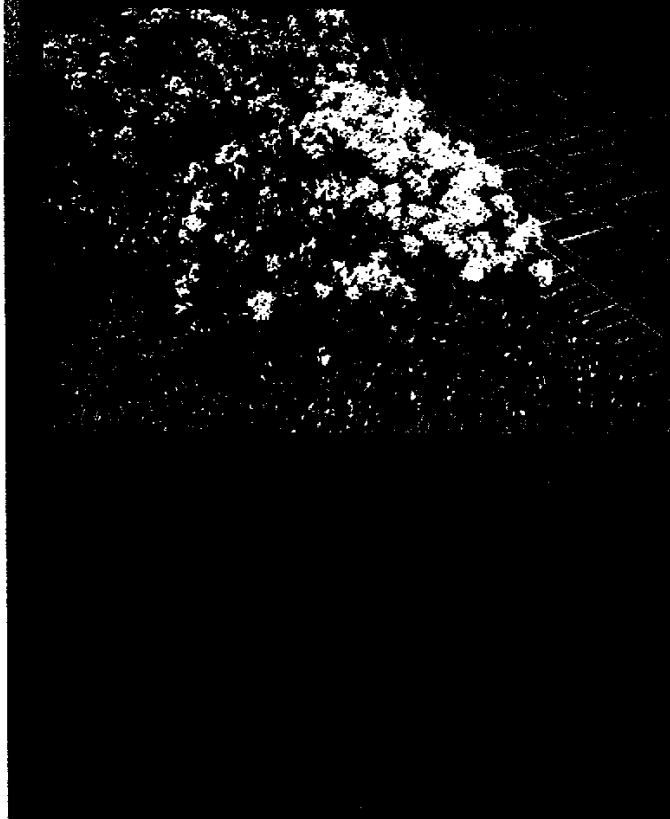


Euonymus  
Wintercreeper

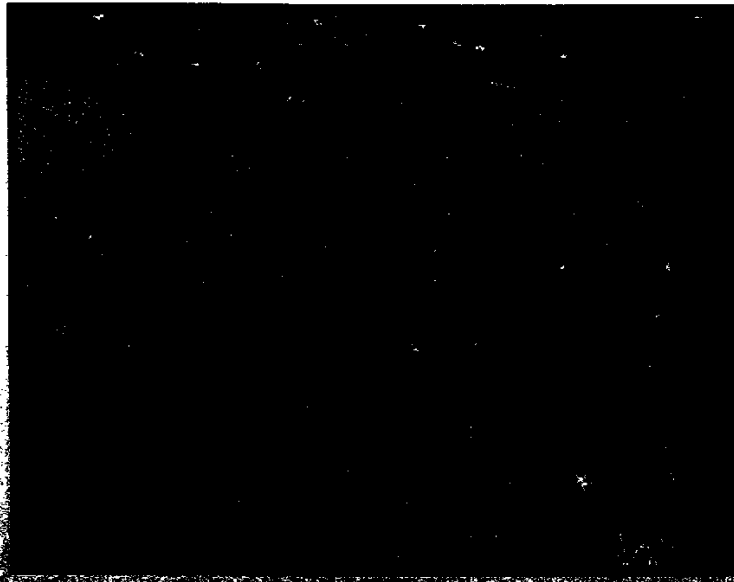




# Recurve Ligustrum



Georgia Petite  
Indian Hawthorn



Ruby Loropetalum





Maiden Grass



## CITY COUNCIL AGENDA ITEM

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**SUBJECT: RZ-21-005, 6301 Browns Mill Road**

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**AGENDA SECTION:** *(check all that apply)*

**PRESENTATION**     **PUBLIC HEARING**     **CONSENT AGENDA**     **OLD BUSINESS**  
 **NEW BUSINESS**     **OTHER, PLEASE STATE:**

---

**CATEGORY:** *(check all that apply)*

**ORDINANCE**    **RESOLUTION**    **CONTRACT**    **POLICY**    **STATUS REPORT**  
 **OTHER, PLEASE STATE: Rezoning**

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**ACTION REQUESTED:**     **DECISION**     **DISCUSSION ONLY**

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**Current Work Session: Monday, October 11, 2021**

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**SUBMITTED BY:** Jim Summerbell, AICP – Planning & Zoning Director

**PRESENTER: Jim Summerbell**

**PURPOSE:** Update City Council on action taken on RZ-21-005 located at 6301 Browns Mill Road by the Planning Commission on September 7, 2021., in preparation of the October 25, 2021 Regular City Council Meeting when the item will be presented as an action item.

**FACTS:** Proposed rezoning from R-100 (Residential Medium Lot-100) to RSM (Small Lot Residential Mix) for the development of a 20 single family detached house community. The subject property is within and is proposed to remain within the Arabia Mountain Overlay District. The applicant is WSM Associates, LLC represented by Battle Law, P.C. The name of the proposed development is James Retreat. The Planning Commission recommended conditional approval of rezoning with conditions including the modification of the site plan to show a full transitional buffer being added around the perimeter of the project.

**OPTIONS:** N/A, Discussion Only

**RECOMMENDED ACTION:** None at this time.

**ATTACHMENTS:**

- (1) Attachment 1 - RZ-21-005, 6301 Browns Mill Staff Report
- (2) Attachment 2 - Rezoning Application RZ-21-005 submitted on July 2, 2021



## **CITY COUNCIL AGENDA ITEM**

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(3) Attachment 3 - Modified Site Plan for James Retreat, 6301 Browns Mill prepared by CivTech Consulting, Inc on September 10, 2021

Attachment 1:  
RZ-21-005 Staff Report to the Planning Commission, Sept 7, 2021



## PLANNING & ZONING STAFF REPORT

RZ-21-005

### Planning Commission Meeting September 7, 2021

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#### GENERAL INFORMATION

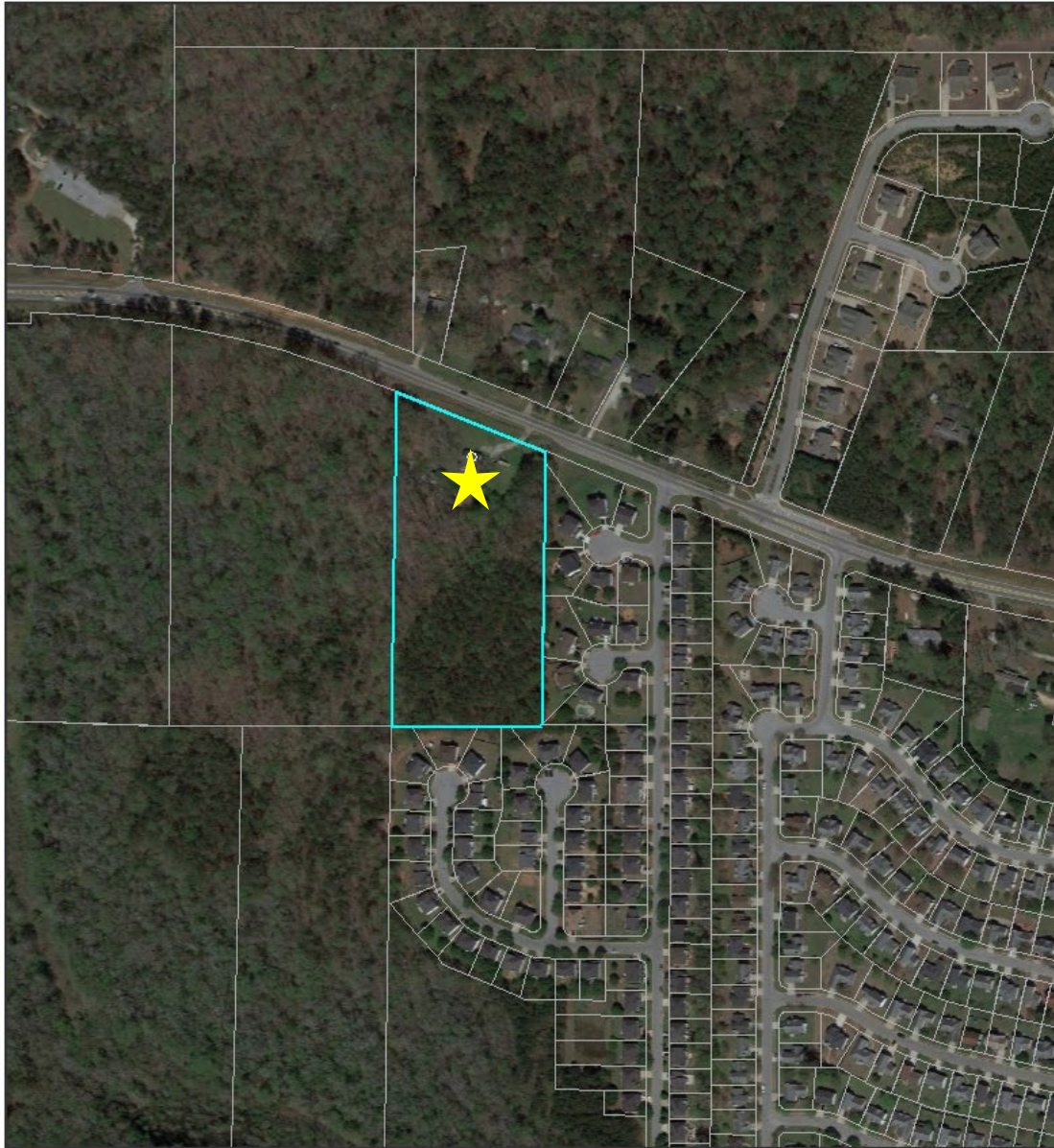
<b>Petition Number:</b>	RZ-21-005
<b>Applicant:</b>	WSM Associates, LLC c/o Battle Law, P.C.
<b>Owner:</b>	Donna Oliver, 6301 Browns Mill Rd
<b>Project Location:</b>	6301 Browns Mill Road, Parcel ID 16 081 01 004
<b>Council District:</b>	District 5 – Tammy Grimes
<b>Acreage:</b>	Approximately 6.07 acres
<b>Existing Zoning:</b>	R-100 (Residential Med Lot) District, Arabia Mountain Conservation Overlay
<b>Proposed Zoning:</b>	RSM (Small Lot Residential Mix), Arabia Mountain Conservation Overlay
<b>Comprehensive Plan Character Area Designation:</b>	Suburban
<b>Proposed Development/Request:</b>	The applicant is requesting to rezone the subject property within the Arabia Mountain Conservation Overlay from R-100 (Residential Med Lot) to RSM (Small Lot Residential Mix) for the development of a 20 single family detached house community.
<b>Staff Recommendations:</b>	<b>Approval with conditions</b>



PLANNING & ZONING STAFF REPORT

RZ-21-005

Aerial Map



ZONING CASE: **RZ-21-005**

ADDRESS: **6301 Browns Mill Road**

CURRENT ZONING: **R-100 (Residential Med Lot)**

FUTURE LAND USE: **Suburban**

0 0.05 0.1 mi



PLANNING & ZONING STAFF REPORT

RZ-21-005

Zoning Map



ZONING CASE: **RZ-21-005**

ADDRESS: **6301 Browns Mill Road**

CURRENT ZONING: **R-100 (Residential Med Lot)**

FUTURE LAND USE: **Suburban**



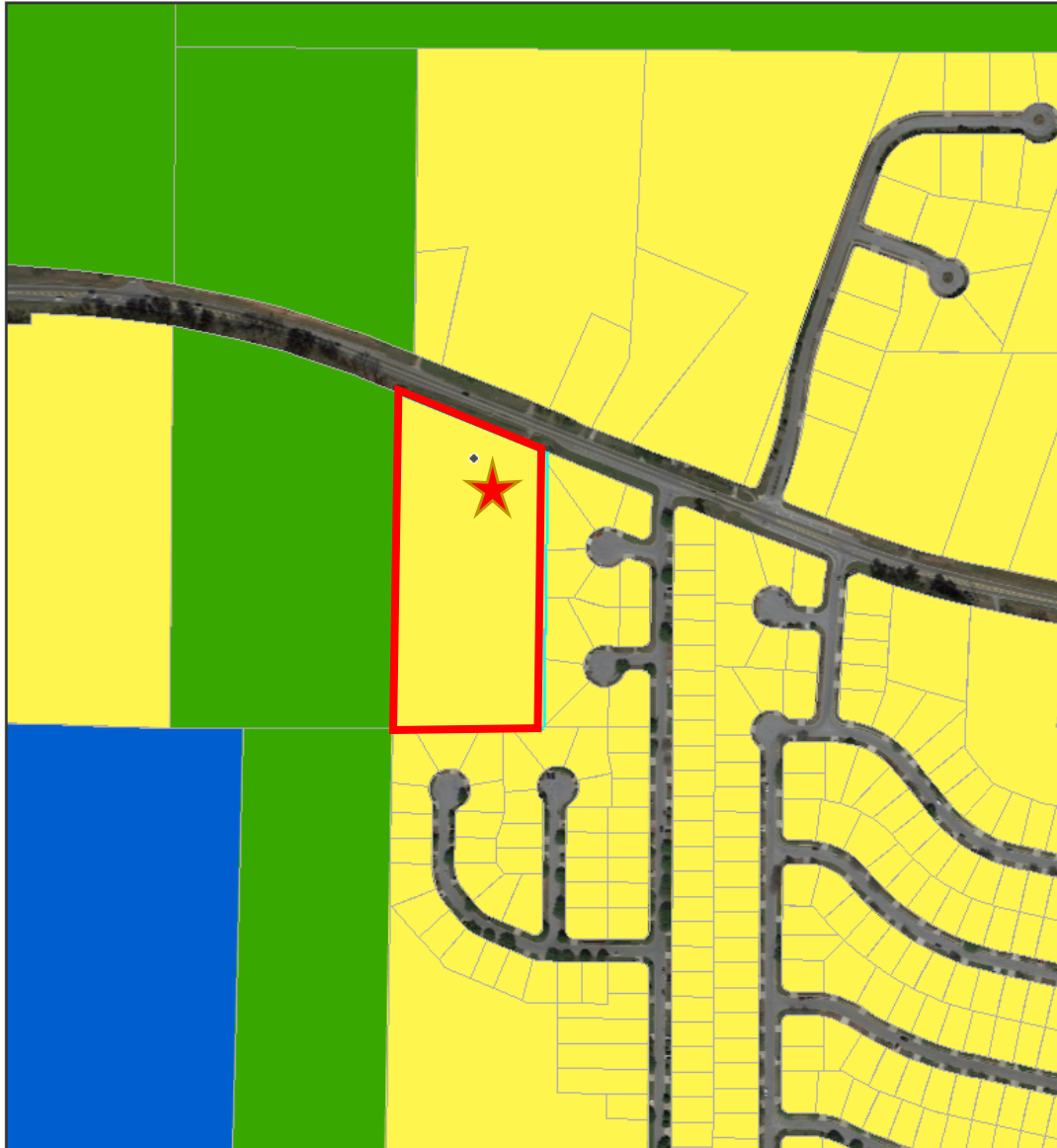




PLANNING & ZONING STAFF REPORT

RZ-21-005

Future Land Use Map



ZONING CASE: **RZ-21-005**

ADDRESS: **6301 Browns Mill Road**

CURRENT ZONING: **R-100 (Residential Med Lot)**

FUTURE LAND USE: **Suburban**







## PLANNING & ZONING STAFF REPORT

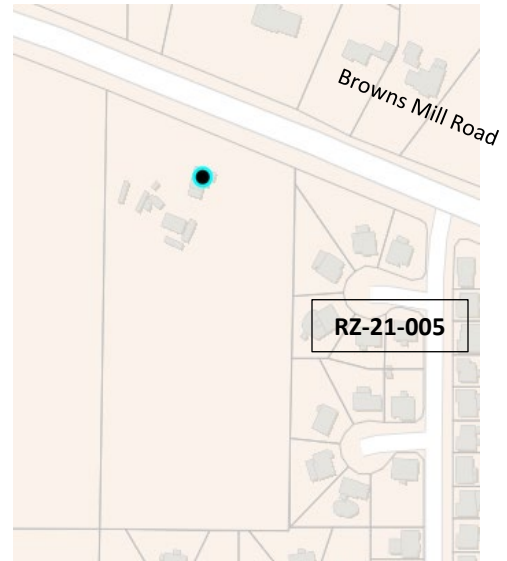
RZ-21-005

### PROJECT OVERVIEW

#### **Location**

The subject property is located at 6301 Browns Mill Road. The property is located on the south side of Browns Mill Road and east of the Browns Mill Road and Flat Bridge Road intersection.

To the east and south of the subject property is the Carriage Park subdivision, a RSM-zoned single-family residential development. Carriage Park subdivision was built in 1998, before the creation of the Arabia Mountain Conservation Overlay. Typical lots in the subdivision are approximately 0.3 acres in area. To the west is a undeveloped parcel zoned R-100, but that is owned by DeKalb County and part of the Davidson Arabia Mountain Nature Preserve.



#### **Background**

Currently, the property has one single family home on it as well as a few small out buildings. The lot is heavily wooded behind the house.

The topography of the property is relatively level sloping about 20 feet lower on the west side of the parcel.





## PLANNING & ZONING STAFF REPORT

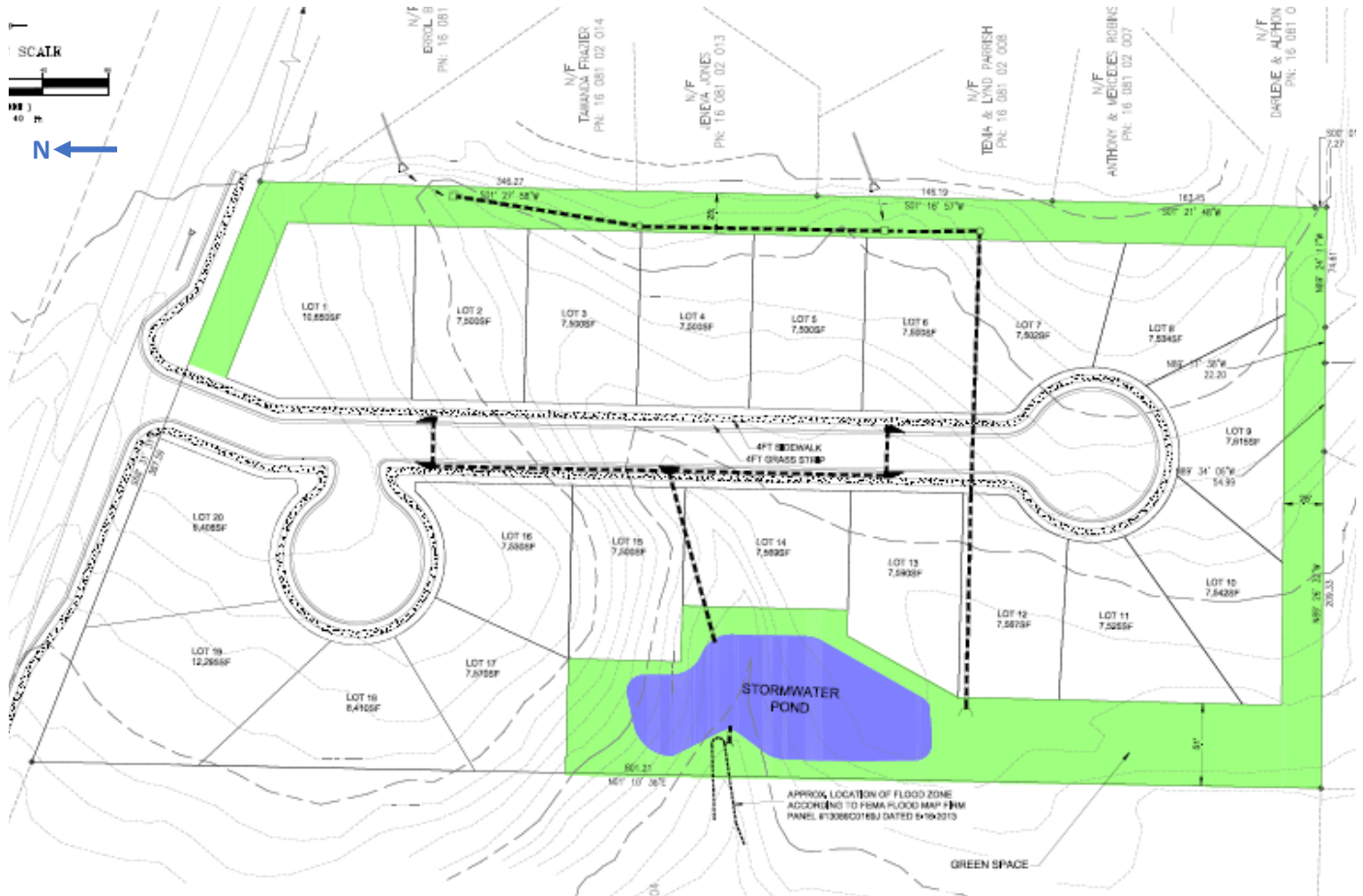
RZ-21-005

### Rezoning Request

The applicant is requesting to rezone the subject property from R-100 to RSM (Small Lot Residential Mix). When this application was first submitted, it included 31 lots, but the applicant has reduced the density and is now showing 20 lots on the proposed site plan.

The subject property is located in the Arabia Mountain Conservation Overlay District where residential developments have additional regulations than what is required for the underlying zoning district. The subject parcel will remain in this overlay district regardless of City Council’s decision on the rezoning. The site plan including in the application shows 20 lots with a minimum of 7,500 square feet, a 25’ buffer around most of the development, and the required sidewalk and landscape strip. The site plan comes close to the intent of the Arabia Mountain Conservation Overlay District, but does not meet all requirements of the Overlay District, and the applicant was made aware of that prior to the Planning Commission meeting.

### Conceptual Site Plan





## PLANNING & ZONING STAFF REPORT

RZ-21-005

The Arabia Mountain Conservation Overlay includes a number of design requirements above and beyond what a typical RSM subdivision must adhere to. These requirements include:

### Sec. 3.4.7 Lot Coverage

- Net lot coverage shall not exceed 25%

### Sec. 3.4.8 Clearing and grading of lots

- Clearing/grading shall be limited to 35% of net lot area

### Sec. 3.4.9 Development Standards

- Minimum lot width shall be 70'
- Minimum lot area shall be 7,500 square feet
- Minimum side yard setback shall be 10 feet
- 30% greenspace required
- Internal radius of cul-de-sac can be maximum of 35 feet; must have grass and vegetation for the inner circle of turn-arounds (Sec. 3.4.9 B.b)
- Show sidewalks (Sec. 3.4.9 B.e)
- Required exterior boundary buffer (Sec. 3.4.9 C) of 25 feet

The site plan presented does not fully comply with the overlay, but is one of the first ever presented to the City for an RSM subdivision within the Arabia Mountain Conservation Overlay, and staff has worked with the applicant to arrive a plan that in concept meets the intent of the Overlay. Further modifications to the plan will be needed.

### **Public Participation**

Property owners within 500 feet of subject property were mailed notices of the proposed rezoning. The city-sponsored community information meeting was held on August 18, 2021, at 5:00 pm via Zoom.com. Several residents show up at the community meeting regarding the rezoning application and others watch via YouTube. There were questions from the public about the buffer and why it did not go all the way around the property.

### **STANDARDS OF REZONING REVIEW**

**Section 7.3.4** of the Stonecrest Zoning Ordinance list eight factors to be considered in a technical review of a zoning case completed by the Planning and Zoning Department and Planning Commission. Each element is listed with staff analysis.



**PLANNING & ZONING STAFF REPORT**

RZ-21-005

**A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.**

The subject property is located within the Conservation/Open space character area of the Stonecrest Comprehensive Plan. The character area intends to preserve areas in the city with significant natural and ecological features. Figure LU-06 *Land Use Types and Character Areas by Zoning Category* in the Comprehensive Plan illustrates that Residential Medium Lot is a permitted zoning district within the Conservation/Open Space character area.

The proposed rezoning is in an area that is partially surrounded by single family detached homes and vacant parcels, and as long as the standards in the Arabia Mountain Overlay are met, the proposed development would meet the intent of the Comprehensive Plan.

**B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.**

As shown in the table below, the subject property is surrounded by a mix of land uses.

<b>Adjacent &amp; Surrounding Properties</b>	<b>Zoning (Petition Number)</b>	<b>Land Use</b>	<b>Density Non-Residential (SF/Acre) Residential (Units/Acre)</b>
Subject Property	R-100, proposed RSM	Detached Single Family Home	1 housing unit on 6.1 acres
Adjacent: North	R-100 (Residential Med Lot) District	Detached Single Family Home	1 housing unit on 8.7 acres
Adjacent: West	R-100 (Residential Med Lot) District	Undeveloped Nature Preserve	N/A
Adjacent: East	RSM (Small Lot Residential Mix)	Residential development of single-family homes	3.3 housing units/ac
Adjacent: South	RSM (Small Lot Residential Mix)	Residential development of single-family homes	3.3 units/ac

The proposed change in zoning would permit a use that would be suitable in view and development of the nearby properties. The rezoning would allow a medium density development that is consistent with the adjacent RSM development, but also built to a higher conservation standard consistent with the intent of the Arabia Mountain Conservation Overlay District.



## PLANNING & ZONING STAFF REPORT

RZ-21-005

**C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.**

The property is currently zoned R-100, which permits single family detached homes like those proposed. RSM allows for smaller lots and smaller setbacks, however the standards and considerations in the Arabia Mountain Overlay supersede those required in the underlying zoning district. Regardless of the zoning district, the Overlay standards must be met. The property does have reasonable economic use as currently zoned.

**D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.**

The proposed zoning proposal is not anticipated to have a negative impact on the existing use or usability of adjacent or nearby properties. The Arabia Mountain Overlay requires a buffer around the outside of the development, so that would protect the residences to the east and the wooded areas to the west while providing an amenity for the residents of the subject property.

**E. Whether there are other existing or changing conditions affecting the use and development of the property, which gives supporting grounds for either approval or disapproval of the zoning proposal.**

There are no changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.

**F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.**

There are currently no historic buildings, sites, districts, or archaeological resources on the subject property.

**G. Whether the zoning proposal will result in a use that will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**

Access to the property will be Browns Mill Road that staff believes would have the traffic capacity to handle the volume of traffic generated by the zoning change. The zoning proposal will not cause an excessive or burdensome on utilities as Dekalb County states the property has the sewer capacity for the intended use. The proposed use will not have harmful or oppressive use of schools.

**H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.**

The zoning proposal will not adversely impact the environment or surrounding natural resources.



## PLANNING & ZONING STAFF REPORT

RZ-21-005

### STAFF RECOMMENDATION

The applicant meets all the criteria for approval. Therefore, staff recommends **APPROVAL** of **RZ-21-005** the following conditions:

1. The site plan must be revised and approved by the Planning & Zoning Director to reflect the intent and purpose of the Arabia Mountain Conservation Overlay District prior to permits being issued.
2. The applicant must submit a tree save and landscaping plan to the Director prior to receiving building or land development permits.
3. There shall be a Mandatory Homeowners Association which shall own and maintain the common areas, and enforce the covenants placed on the community.
4. Prior to the issuance of any land disturbance permit, the Applicant must provide evidence of a legal mechanism under which all land to be held in common and used for greenspace purposes within the development shall be protected in perpetuity.
5. A minimum 5-foot sidewalk shall be installed along the property frontage on Browns Mill Road.

Attachments:

2 – RZ-21-005 Application including:

Letter of Intent,

Concept Plan

Building Elevations

Environmental Site Analysis

Owner and Applicant Affidavit

Public Participation Plan

Attachments:

3 – RZ-21-005 Revised Site Plan

Attachment 2: RZ-21-005 Application Materials





## Rezoning Application

Owner Information	Owner's Name: Donna Oliver		
	Owner's Address: 6301 Browns Mill Road Stonecrest, GA 3003		
	Phone:	Fax:	Email:
	Property Address: 6301 Browns Mill Road Stonecrest, GA 3003		Parcel Size: 6.07 acres
	Parcel ID: 16 0 1 02 004		
	Current Zoning Classification: R-100		
	Requested Zoning Classification: RSM		
	Name: WSM Associates, LLC c/o Battle Law, P.C.		
	Address: One West Court Square Suite 750 Decatur, GA 30030		
	Phone: 404-601-7616		Fax: 404-745-0045
Cell:		Email: mlb@battlelawpc.com	
Property Information	Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements? <div style="text-align: right;"><input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</div>		
	1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties?		
	Yes, the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties		
	2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned?		
	No, the property has no reasonable economic use as currently zoned R-100.		
	3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?		
	No, the zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property.		
	4. Are other existing or changing conditions affecting the existing use or usability of the development of the property which give supporting grounds for either approval or disapproval of the zoning proposal?		
	Not that the Applicant is aware of.		
	5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources?		
The zoning proposal will not adversely affect historic buildings, sites, districts, or archaeological resources.			
Questionnaire	6. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?		
	No, the zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.		



**STATEMENT OF INTENT**

and

Other Material Required by  
City of Stonecrest Zoning Ordinance  
For  
A Rezoning Application Pursuant to  
City of Stonecrest Zoning Ordinance

of

**WSM Associates, LLC.  
c/o Battle Law, P.C.**

for

**6.07± Acres of Land located at 6301 Browns Mill Road**  
Being Tax Parcel No. 160 081 02 004  
Stonecrest, Georgia

Submitted for Applicant by:

Michèle L. Battle, Esq.  
Battle Law, P.C.  
One West Court Square, Suite 750  
Decatur, Georgia 30030  
(404) 601-7616 Phone  
(404) 745-0045 Facsimile  
[mlb@battlelawpc.com](mailto:mlb@battlelawpc.com)

## I. STATEMENT OF INTENT

The Applicant, WSM Associates, LLC, seeking to rezone 6.07 acres of land located at 6301 Browns Mill Road, Stonecrest, GA 30038, being Tax ID No. 160 081 02 004 (“Subject Property”). The property is currently zoned R-100 with a future land use designation of Suburban, and is in the Arabia Mountain Overlay District. The Applicant is seeking to rezone this property to RSM to allow for a community of 31 single family-detached homes. The proposed RSM zoning and development are consistent with the future land use designation, as established in Figure LU-06 of City of Stonecrest Comprehensive Plan 2038. Additionally, the proposed rezoning and proposed development are appropriate for the area. While properties to the West of the Subject Property are currently zoned R-100, a number of properties to the immediate East of the Subject Property are zoned RSM. The Subject Property would be well suited being zoned RSM to allow for a 31 single family home community, considering its future land use designation and surrounding properties.

<b>Proposed Building Materials</b>	Hardy siding, wood, stucco, and stone accents
<b>Unit Sizes</b>	1,650 sf
<b>Number of Bedrooms</b>	3 minimum/unit
<b>Will there be a garage for each unit?</b>	Yes, 2 Car Garages
<b>Will units be rear entry, front entry, or a mixture?</b>	Mostly front entry, with some side entry garages
<b>Anticipated List Price</b>	\$270,000 +

This document is submitted both as a Statement of Intent with regard to this Application, a preservation of the Applicant’s constitutional rights, the Rezoning Application Criteria, and the Future Land Use Map Amendment Criteria. A surveyed plat and conceptual site plan of the Subject Property has been filed contemporaneously with the Application, along with other

required materials.

## **II. REZONING APPLICATION CRITERIA**

*A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;*

The zoning proposal is in conformity with the policy and intent of the comprehensive plan. The rezoning would be in conformity to the comprehensive plan.

*Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;*

The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The properties immediately surrounding the Subject Property are zoned R-100 and RSM, and are developed as such. Additionally, all of these properties have a future land use designation of Suburban, which is consistent with the proposed rezoning and development.

*B. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;*

The Subject Property has no reasonable economic use as currently zoned.

*C. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;*

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The proposed community will serve as another residential development to enhance the area's housing market.

*Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;*

The Applicant is not aware of any existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal.

*D. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and*

The zoning proposal will not adversely affect historic buildings, sites, district, or archaeological resources.

*E. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.*

The zoning proposal will not result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

#### **IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF APPLICANT'S CONSTITUTIONAL RIGHTS**

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be 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 the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that 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 Article I, 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 of its land while not substantially advancing legitimate state interests.

A denial of this Application would 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 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 1 of the Constitution of the State of Georgia.

A refusal by the City of Stonecrest City Council to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of 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 Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

A refusal to allow the land use amendment and/or rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the land use amendment and/or rezoning 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 Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the City on notice that it may elect to file a claim in the Superior Court of DeKalb demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be 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 the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that 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 Article I, 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 of its land while not substantially advancing legitimate state interests.

A denial of this Application would 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 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 1 of the Constitution of the State of Georgia.

A refusal to allow the rezoning in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

#### **V. CONCLUSION**

For the foregoing reasons, the Applicant respectfully requests that the simultaneous Future Land Use Amendment Application and Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 2nd day of July, 2021.

Respectfully submitted,



---

Michèle L. Battle, Esq.  
Attorney For Applicant





# Environmental Site Analysis

Analyze the impact of the proposed rezoning and provide a written point-by-point response to Points 1 through 3:

## 1. Conformance to the Comprehensive Plan:

- a. Describe the proposed project and the existing environmental conditions on the site.

The proposal is to rezone from R-100 to RSM for the development of a thirty-one (31) unit single family-detached community. Currently, a large majority of the land is heavily wooded, with a single family-detached home located along Browns Mill Road.

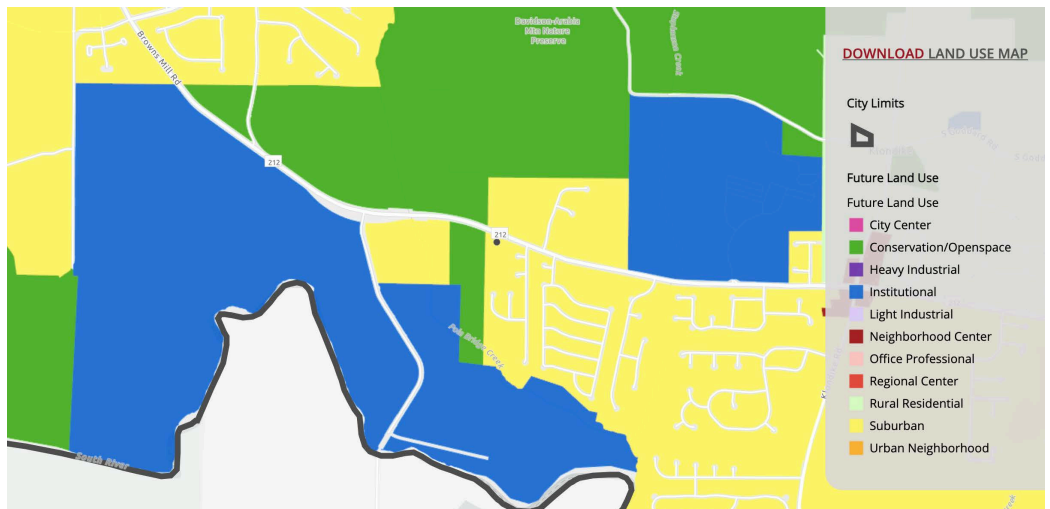
- b. Describe adjacent properties. Include a site plan that depicts the proposed project.

Adjacent properties to the West include heavily wooded areas and Pole Bridge Creek. To the North there are four single family-detached homes. Lastly, to the East and South is a single family-detached community with a single entrance point on Browns Mill Road.

- c. Describe how the project conforms to the Comprehensive Land Use Plan.

The Future Land Use designation of the Subject Property is Suburban. The proposed rezoning to RSM, and proposed thirty-one (31) unit single family-detached community both conform to the Comprehensive Land Use Plan, as they both fall within the Suburban Land Use category.

- d. Include the portion of the Comprehensive Plan Land Use Map which supports the project's conformity to the Plan.





- e. Evaluate the proposed project with respect to the land use suggestion of the Comprehensive Plan as well as any pertinent Plan policies.

The proposed project is in conformance with the land use suggestion of the Comprehensive Plan and pertinent Plan policies. The Plan allows for RSM zoning within the the Suburban Land Use designation. The proposed density is also supported by the Suburban land use designation.

## 2. Environmental Impacts of The Proposed Project

For each environmental site feature listed below, indicate the presence or absence of that feature on the property. Describe how the proposed project may encroach or adversely affect an environmental site feature. Information on environmental site features may be obtained from the indicated source(s).

### a. Wetlands

- U. S. Fish and Wildlife Service, National Wetlands Inventory (<http://wetlands.fws.gov/downloads.htm>)
- Georgia Geologic Survey (404-656-3214)
- Field observation and subsequent wetlands delineation/survey if applicable

To the Applicant's knowledge, there are no wetlands on the property.

### b. Floodplain

- Federal Emergency Management Agency (<http://www.fema.org>)
- Field observation and verification

To the Applicant's knowledge, there are no floodplains on the property.

### c. Streams/stream buffers

- Field observation and verification

To the Applicant's knowledge, there are no streams on the property, but a stream does traverse near the Northern edge of the property .The stream buffer does not cross over the property.

### d. Slopes exceeding 25 percent over a 10-foot rise in elevation

- United States Geologic Survey Topographic Quadrangle Map
- Field observation and verification

To the Applicant's knowledge, there are no slopes exceeding 25% over a 10-foot rise in elevation.

### e. Vegetation • United States Department of Agriculture, Nature Resource Conservation Service

- Field observation

The property is heavily wooded.

### f. Wildlife Species (including fish)

- United States Fish and Wildlife Service
- Georgia Department of Natural Services, Wildlife Resources Division, Natural Heritage Program
- Field observation

To the Applicant's knowledge, there are no wildlife habitats on the property.



g. Archeological/Historical Sites

- Historic Resources Survey
- Georgia Department of Natural Resources, Historic Preservation Division
- Field observation and verification

To the Applicant's knowledge, there are no archeological/historical sites.

### 3. Project Implementation Measures

Describe how the project implements each of the measures listed below as applicable. Indicate specific implementation measures required to protect environmental site feature(s) that may be impacted.

- a. Protection of environmentally sensitive areas, i.e., floodplain, slopes exceeding 25 percent, river corridors.

The applicant will do whatever deemed necessary to protect environmentally sensitive areas.

- b. Protection of water quality

The applicant will do whatever deemed necessary to protect water quality.

- c. Minimization of negative impacts on existing infrastructure

The applicant will do whatever deemed necessary to minimize negative impacts on existing infrastructure.

- d. Minimization on archeological/historically significant areas

To the Applicant's knowledge, there are no archeological/historically significant areas on the property.

- e. Minimization of negative impacts on environmentally stressed communities where environmentally stressed communities are defined as communities exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses.

To the Applicant's knowledge, the community is not an environmentally stressed one.

- f. Creation and preservation of green space and open space

3120 Stonecrest Blvd. • Stonecrest, Georgia 30038 • (770) 224-0200 •



The proposed development will include open/green space for each individual home. With a density of 5.1 units/acre, each home has both a front and back yard for residents to enjoy.

- g. Protection of citizens from the negative impacts of noise and lighting

The proposed single family-detached community minimally impact current citizens in terms of noise and lighting.

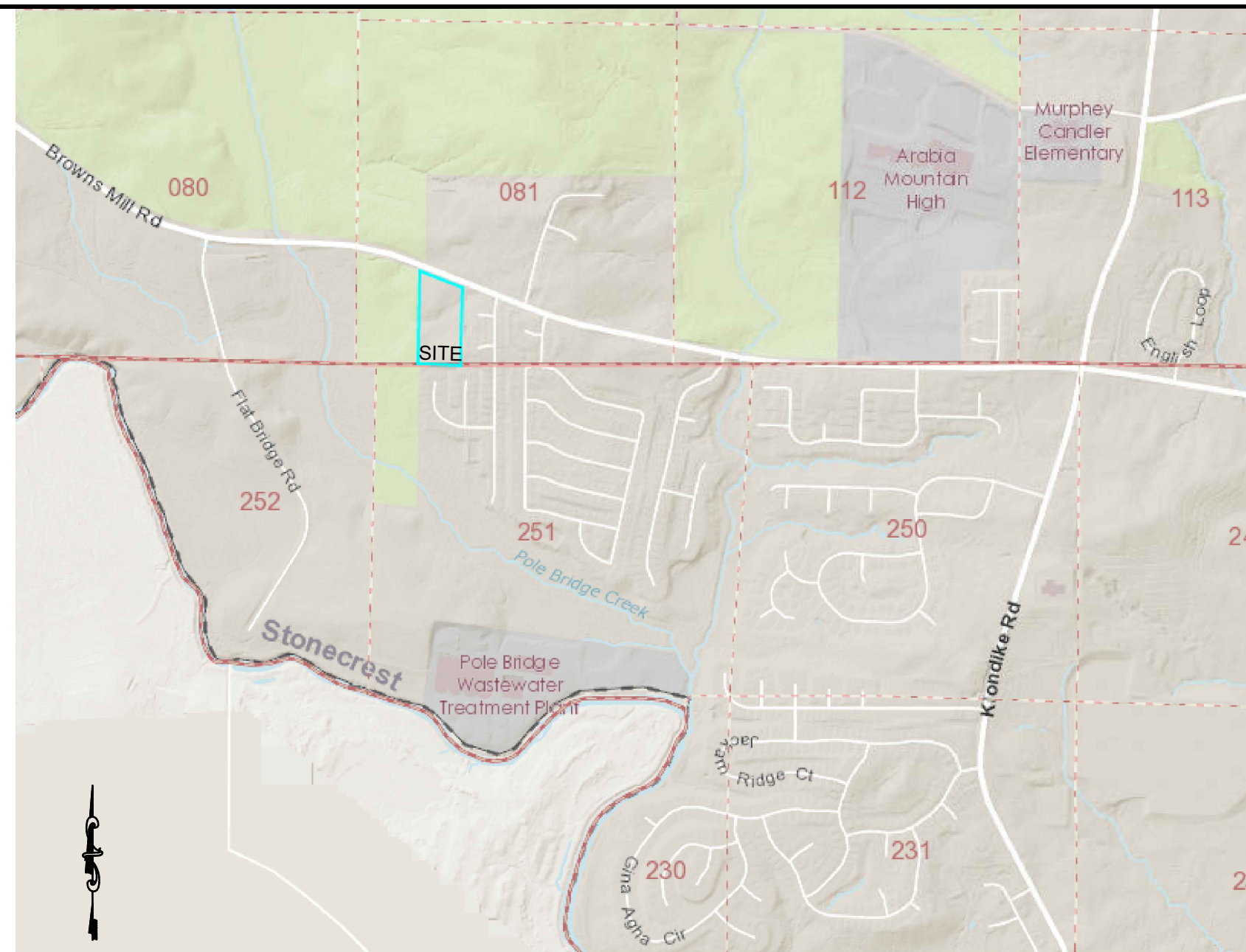
- h. Protection of parks and recreational green space

To the Applicant's knowledge, the proposed development will not adversely impact existing parks and recreational green space.

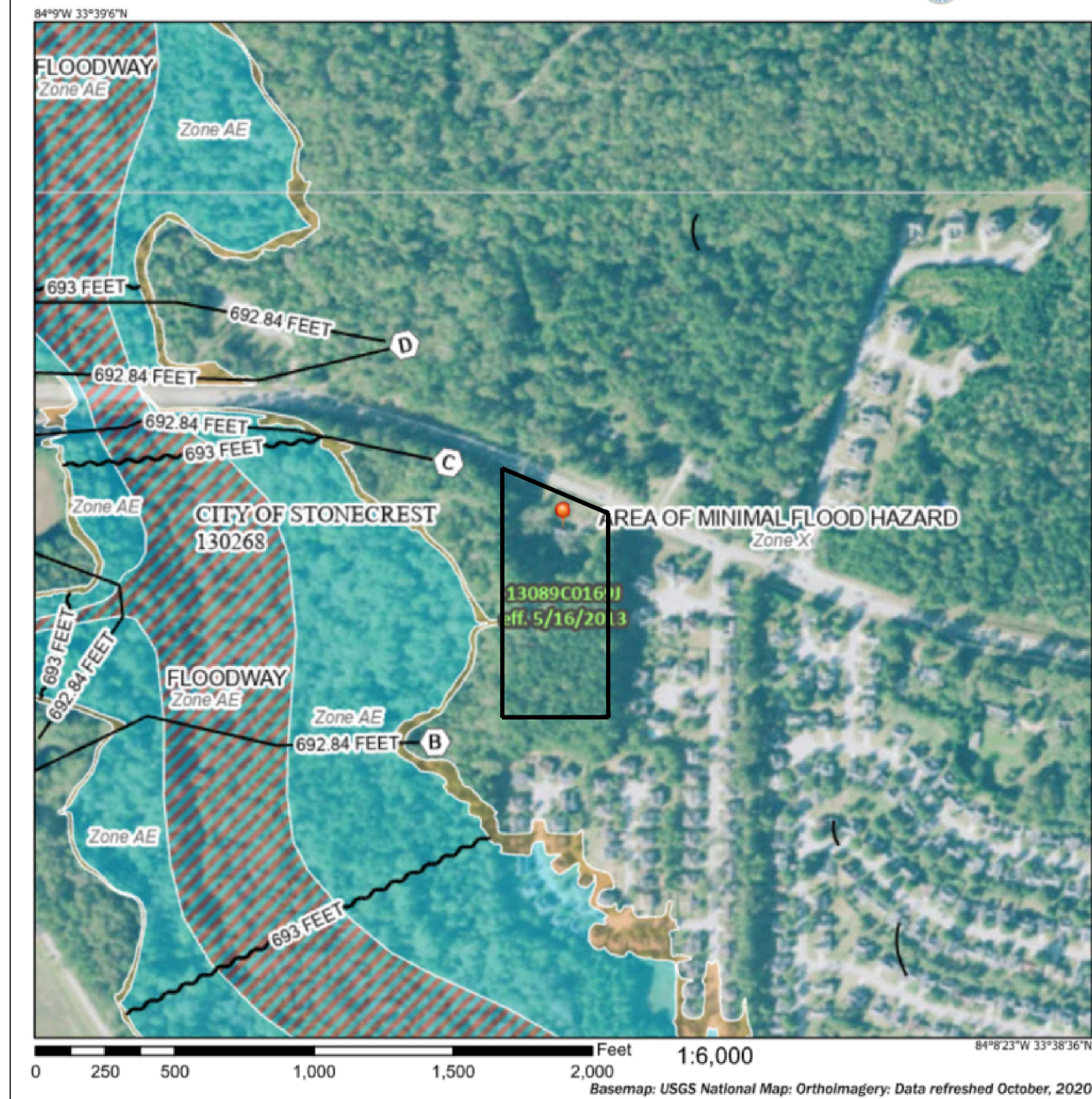
- i. Minimization of impacts to wildlife habitats

To the Applicant's knowledge, there is no nearby wildlife habitats.





National Flood Hazard Layer FIRMette



**Legend**

SEE FIRM REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

**SPECIAL FLOOD HAZARD AREAS**

- Without Base Flood Elevation (BFE)
- With BFE or Depth (Zone AE, AE-1, AE-2, AE-3)
- Regulatory Floodway

**OTHER AREAS OF FLOOD HAZARD**

- 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile (Zone X)
- Future Conditions 1% Annual Chance Flood Hazard (Zone X-1)
- Area with Reduced Flood Risk due to Levee, Sea Walls, etc. (Zone V)
- Area with Flood Risk due to Levee (Zone V-1)

**OTHER AREAS**

- No Screen Area of Minimal Flood Hazard (Zone 0)
- Effective LOMs
- Area of Undetermined Flood Hazard (Zone U)

**GENERAL STRUCTURES**

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

**OTHER FEATURES**

- Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Truncated
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Truncated Baseline
- Profile Baseline
- Hydrographic Feature

**MAP PANELS**

- Digital Data Available
- No Digital Data Available
- Unmapped

The site displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps. If it is not used as described below, the base map shows compliance with FEMA's base map accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was updated on 02/20/2021 at 12:30 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is valid if the one or more of the following map elements do not appear: base map imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

PROPERTY INFORMATION

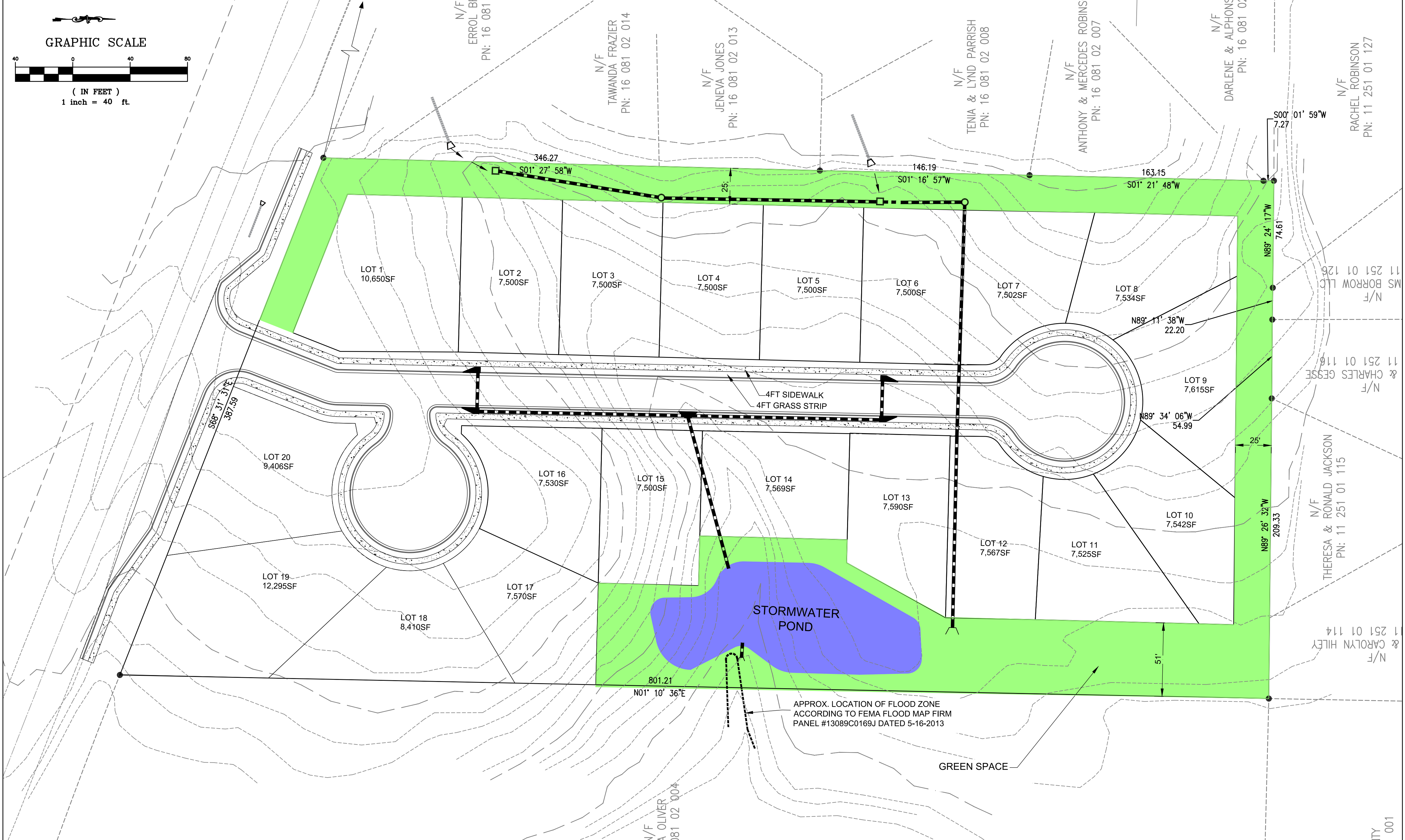
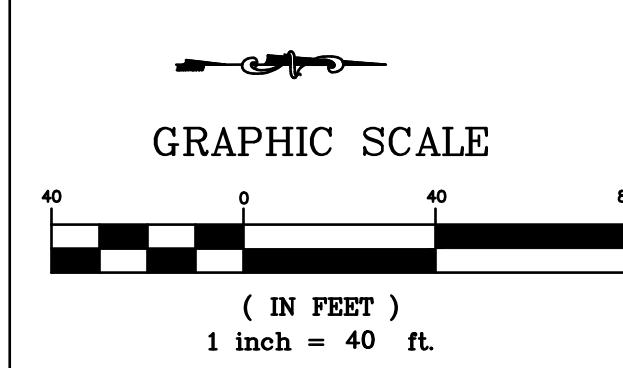
ADDRESS: 6301 BROWNS MILL ROAD, STONECREST, GA  
 PARCEL ID: 16 081 02 004  
 CURRENT ZONING: R100  
 PROPOSED ZONING: RSM  
 LOT SIZE: 6,074C

DEVELOPER

SEED CAPITAL INVESTMENTS, LLC  
 3112 MAIN STREET, SUITE 200  
 DULUTH, GA 30096

CONTACT: WAYNE S. MOREHEAD

TEL: 678-641-2284  
 EMAIL: wmorehead@seedcapitalinvestment.com



**DEVELOPMENT STANDARDS (RSM ZONING, SINGLE FAMILY DETACHED)**

DENSITY:	4 UNITS/AC
LOT AREA:	5,000SF
LOT WIDTH:	50FT
LOT COVERAGE:	50%
FRONT SETBACK:	15FT
SIDE SETBACK - INTERIOR:	3FT (10FT BETWEEN BUILDINGS)
SIDE SETBACK - CORNER LOT:	15FT
REAR SETBACK:	20FT
HEATED AREA:	1,200SF

**DEVELOPMENT STANDARDS (ARABIAN MOUNTAINS OVERLAY DISTRICT)**

DENSITY:	8 UNITS/AC (of developable land)
LOT AREA:	7,500SF (10,000SF ON PERIPHERY)
LOT WIDTH:	70FT (35FT AT CUL-DE-SAC)
LOT COVERAGE:	50%
FRONT SETBACK:	20FT
SIDE SETBACK:	10FT
REAR SETBACK:	20FT (Not defined, use Stonecrest)
GREEN SPACE: (Sec. 34.9)	30% (65% on contiguous tract)
GREEN SPACE INCLUDES:	1. NATURAL UNDISTURBED AREAS 2. PASSIVE RECREATIONAL AREAS 3. TRAILS AND GREEN WAYS 4. BIKEWAYS AND PATHS 5. MATURE WOODED AREAS

**BUFFER REQUIREMENTS:**  
 EXTERIOR BUFFER INCLUDED IN REQUIRED GREEN SPACE  
 NOT INCLUDED AS PART OF PLATTED LOTS  
 LOTS LESS THAN 10,000SF: 25FT

**DEVELOPMENT SUMMARY**

SITE AREA:	6.09AC
UNDEVELOPABLE AREAS:	
STREAMS AND STREAM BUFFERS:	0AC
WETLANDS:	0AC
ROCK OUTCROPPINGS:	0AC
SLOPES STEEPER THAN 2:1:	0AC
ARCHAEOLOGICAL SITES:	0AC
FLOODPLAINS:	0AC
DEDICATED RIGHT-OF-WAY:	1.25AC
TOTAL UNDEVELOPABLE AREAS:	1.25AC
DEVELOPABLE AREAS (6.09 - 1.25):	4.84AC
MAX. NO. OF LOTS @ 8 UNITS/AC:	38 LOTS
NO. OF LOTS:	20
GREEN SPACE:	
REQUIRED (30% x 4.84):	1.45AC
PROVIDED:	1.55AC
STREETS:	
R.O.W. WIDTH:	50FT
ROADWAY WIDTH:	24FT (FOC TO FOC)
PAVEMENT WIDTH:	21FT

**CIVITECH CONSULTING, LLC**  
 4221 GRANT FOREST CIRCLE  
 ELLENWOOD, GA 30294  
 TEL: 770-756-4699

THE JAMES RETREAT  
 6301 BROWNS MILL RD  
 STONECREST, GA 30038



DATE:	06/28/2021
SCALE:	As Shown
DESIGNED BY: SMC	CHECKED BY: SMC
DRAWN BY: JL	APPROVED BY: SMC
DRAWING NO.	

PRELIMINARY, NOT ISSUED FOR CONSTRUCTION



## Proposed Representative Elevations Mid-Century Modern





## **PUBLIC PARTICIPATION PLAN**

Applicant: WSM Associates, LLC

1. The following individuals (property owners within a minimum of 500 ft of the property), homeowner's associations, political jurisdictions, other public agencies, etc. will be notified

Everyone listed on the mailing list provided by City of Stonecrest Staff

along with all property owners within a minimum of 750 ft of the boundaries of the property.

2. The individuals and others listed in 1. above will be notified of the requested rezoning/use permit using the following method(s): (e.g., letters, meeting notices, telephone calls, e-mails, etc.)

Letters will be mailed to all individuals listed in Paragraph 1 above.

3. Individuals and others listed in 1. above will be allowed to participate in the following manner: (At least one meeting at a convenient time and location is required.)

A community meeting will be held via Zoom between the hours of 6pm and 8:30pm on a  
a weekday, with the exception of Friday.

*Attach additional sheets as needed.*



## Applicant/Petitioner Notarized Certification

Petitioner states under oath that: (1) he/she is the executor or Attorney-In-Fact under a Power-of- Attorney for the owner (attach a copy of the Power-of-Attorney letter and type name above as "Owner"); (2) he/she has an option to purchase said property (attach a copy of the contract and type name of owner above as "Owner"); (3) he/she has an estate for years which permits the petitioner to apply (attach a copy of lease and type name of owner above as "Owner").

Applicant / Petitioner	WSM Associates, LLC Signature: <i>Waymen</i>		Date: <i>6/28/21</i>
	Address: 3344 Folly Beach Park		City, State: Lawrenceville, GA Zip: 30044
	Phone: 678-641-2284		
Sworn to and subscribed before me this _____ day of _____, 20____			
Notary Public:			
Attorney / Agent	Signature: <i>Karyl Bentley</i>		Date: <i>6/28/21</i>
	Address: One West Court Square, Suite 750		City, State: Decatur, GA Zip: 30030
	Phone: 404-601-7616		
Sworn to and subscribed before me this <i>28th</i> day of <i>June</i> , 20 <i>21</i>			
Notary Public:			





### Campaign Disclosure Statement

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission?

Yes  No

Applicant / Owner	Signature: <i>Wayne March</i>
	Address: <i>3112 Main St, Ste 200 Dutch GA 30096</i>
	Date: 7/6/2021

If you answered yes above, please complete the following section:


Date	Government Official	Official Position	Description	Amount



### Campaign Disclosure Statement

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission?

Yes     No

Applicant / Owner	Signature: 
	Address: One West Court Square, Suite 750, Decatur, GA 30030
	Date: 7/6/2021

If you answered yes above, please complete the following section:

Date	Government Official	Official Position	Description	Amount



## Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this Zoning Map Petition application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for zoning amendment, and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

Property Owner (If Applicable)	Donna Oliver, as owner		Date: <u>6-28-2021</u>
	Signature:		
	Address: 6301 Browns Mill Road	City, State: Stonecrest, GA	Zip: 30038
	Phone:		
	Sworn to and subscribed before me this <u>28th</u> day of <u>June</u> , 20 <u>21</u>		
	Notary Public:		
	Signature:		Date:
	Address:	City, State:	Zip:
	Phone:		
Property Owner (If Applicable)	Sworn to and subscribed before me this _____ day of _____, 20_____		
	Notary Public:		
	Signature:		Date:
	Address:	City, State:	Zip:
	Phone:		
Property Owner (If Applicable)	Sworn to and subscribed before me this _____ day of _____, 20_____		
	Notary Public:		

Attachment 3: Revised Site Plan for James Retreat, RZ-21-005









## CITY COUNCIL AGENDA ITEM

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**SUBJECT: TMOD-21-007, Private Permitting Review**

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**AGENDA SECTION:** *(check all that apply)*

**PRESENTATION**     **PUBLIC HEARING**     **CONSENT AGENDA**     **OLD BUSINESS**  
 **NEW BUSINESS**     **OTHER, PLEASE STATE:**

---

**CATEGORY:** *(check all that apply)*

**ORDINANCE**     **RESOLUTION**     **CONTRACT**     **POLICY**     **STATUS REPORT**  
 **OTHER, PLEASE STATE: Text Amendment**

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**ACTION REQUESTED:**     **DECISION**     **DISCUSSION ONLY**

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**Current Work Session: Monday, October 11, 2021**

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**SUBMITTED BY:** Jim Summerbell, AICP – Planning & Zoning Director

**PRESENTER:** Jim Summerbell

**PURPOSE:** Update City Council on action taken on TMOD-21-007, Private Permitting Review, by the Planning Commission on September 7, 2021.

**FACTS:** Proposed text amendment to the Stonecrest Code of Ordinances, Chapter 7 – Building and Construction. This would include the adoption of the GMA model ordinance for Private Permitting Prequalification for review and inspection. The Planning Commission recommended unanimously to adopt the text amendment.

**OPTIONS:** N/A, Discussion Only

**RECOMMENDED ACTION:** None at this time.

**ATTACHMENTS:**

- (1) Attachment 1 - TMOD-21-007 Staff Report
- (2) Attachment 2 - HB493, as signed by the Governor and made effective July 1, 2019
- (3) Attachment 3 - Model GMA Ordinance modified for Stonecrest

Attachment 1, TMOD-21-007: Staff Report to the Planning Commission, Sept. 7 ,2021



## PLANNING & ZONING STAFF REPORT

MEETING DATE: September 7, 2021

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### GENERAL INFORMATION

- Petition Number:** TMOD 21-007\*
- Applicant:** Stonecrest Planning and Zoning Department
- Project Location:** City-Wide
- Proposed amendment:** Amendment to the Stonecrest Code of Ordinances, Chapter 7 – Building and Construction. Adoption of the GMA model ordinance for Private Permitting Prequalification for review and inspection.

### FACTS AND ISSUES:

Staff is recommending the adoption of the GMA model ordinance for Private Permitting Prequalification for review and inspection. This action is in response to the passage of the Private Permitting Review and Inspection Act during the 2019-2020 Regular Session of the Georgia General Assembly.

Adoption of this model ordinance would bring the City in compliance with the Georgia Private Permitting Review and Inspection Act and would formalize third party review and inspection of permits from a pre-qualified list of inspectors and reviewers, at the cost of the applicant. It would also provide relief from city review and inspection in times when such reviews are deemed to be taking too long.

**RECOMMENDED ACTION:** Recommend Approval to the City Council

### ATTACHMENTS:

1. HB493, as signed by the Governor and made effective July 1, 2019
2. Model GMA Ordinance modified for Stonecrest

\* Note – this TMOD was renumbered from TMOD-21-010 as presented to City Council at their Special Called Work Session on August 13, 2021 to maintain sequential numbering with previously adopted text amendments.

Attachment 2: HB 493, as signed by the Governor and made effective July 1, 2019

House Bill 493 (AS PASSED HOUSE AND SENATE)

By: Representatives Tanner of the 9<sup>th</sup>, Harrell of the 106<sup>th</sup>, Stephens of the 164<sup>th</sup>, Powell of the 32<sup>nd</sup>, and Lumsden of the 12<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To provide for professional engineers or other professionals to review certain plans related  
2 to building and development if certain conditions are met so as to provide for a determination  
3 in a timely manner; to amend Chapter 2 of Title 8 of the Official Code of Georgia Annotated,  
4 relating to standards and requirements for construction, alteration, etc., of buildings and other  
5 structures, so as to provide procedures for alternative plan review, permitting, and inspection  
6 by private providers so as to simplify regulations on businesses at the local level; to provide  
7 for definitions; to amend Chapter 7 of Title 12 of the Official Code of Georgia Annotated,  
8 relating to control of soil erosion and sedimentation, so as to provide that counties and  
9 municipalities can contract with qualified personnel to implement land disturbance activity  
10 ordinances; to provide for a short title; to provide for related matters; to repeal conflicting  
11 laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 This Act shall be known and may be cited as the "Private Permitting Review and Inspection  
15 Act."

16 **SECTION 2.**

17 Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to standards and  
18 requirements for construction, alteration, etc., of buildings and other structures, is amended  
19 by revising subsection (g) of Code Section 8-2-26, relating to enforcement of codes  
20 generally, employment and training of inspectors, and contracts for administration and  
21 enforcement of codes, as follows:



22 “(g)(1) As used in this subsection, the term:

23 (A) 'Complete application' means a submitted plan, application, or request for  
 24 inspection that contains all of the information and supporting documentation required  
 25 by the county or municipality for it to make the determination as to whether the plan,  
 26 application, or request is in compliance with regulatory requirements.

27 (B) 'Private professional provider' means a professional engineer who holds a  
 28 certificate of registration issued under Chapter 15 of Title 43 or a professional architect  
 29 who holds a certificate of registration issued under Chapter 4 of Title 43, who is not an  
 30 employee of or otherwise affiliated with or financially interested in the person, firm, or  
 31 corporation engaged in the construction project to be reviewed or inspected.

32 (C) 'Regulatory fee' means payments, whether designated as permit fees, application  
 33 fees, or by another name, that are required by a local government as an exercise of its  
 34 police power, its regulation of business, and as a part of or as an aid to regulation of  
 35 construction related activities under this chapter.

36 (D) 'Regulatory requirements' means the requirements determined by a county or  
 37 municipality to be necessary for approval of plans, permits, or applications under this  
 38 chapter; provided, however, that with respect to any application, such requirements  
 39 shall include the Georgia State Minimum Standard Codes most recently adopted by the  
 40 Department of Community Affairs and any locally adopted ordinances and amendments  
 41 to such codes; applicable zoning ordinances and conditions; design standards; and other  
 42 state and local laws, regulations, and ordinances applicable to the application in  
 43 question.

44 (2) Each county or municipality which imposes regulatory fees or regulatory  
 45 requirements within its jurisdiction shall establish and make available a schedule of such  
 46 regulatory fees and regulatory requirements which shall include a list of all  
 47 documentation related to compliance with such regulatory requirements, including the  
 48 requirements necessary for submittal of a complete application. The amount of any  
 49 regulatory fee shall approximate the reasonable cost of the actual regulatory activity  
 50 performed by the local government and shall be subject to the provisions of paragraph (6)  
 51 of Code Section 48-13-5.

52 (3) No later than five business days after receipt of any application related to regulatory  
 53 requirements, a local building official of a county or municipality shall notify each  
 54 applicant as to whether the submitted documents meet the requirements of a complete  
 55 application. Except as otherwise provided in this paragraph, time spent by a county or  
 56 municipality determining whether an application is complete shall count toward the  
 57 total 30 days for plan review or inspection. If a local building official determines that the  
 58 application is not complete, the applicant shall be provided written notice identifying the

59 items that are not complete. The 30 day time period is tolled when the application is  
60 rejected as incomplete. If within 30 days after the county or municipality has provided  
61 notice that the application is incomplete the permit applicant submits revisions to address  
62 the identified deficiencies, the local building official shall have an additional five  
63 business days to review the application for completeness.

64 (4) Upon notification to the applicant that a complete application has been accepted, a  
65 county or municipality shall also notify each applicant as to whether the personnel  
66 employed or contracted by such county or municipality will be able to provide regulatory  
67 action within 30 days for plan review or provide inspection services within two business  
68 days of receiving a valid written request for inspection.

69 (5) If the county or municipality determines that the personnel employed or contracted  
70 by such county or municipality cannot provide regulatory action or inspection services  
71 within the time frames required under paragraph (4) of this subsection, the applicant shall  
72 have the option of retaining, at its own expense, a private professional provider to provide  
73 the required plan review or inspection in accordance with the provisions of this Code  
74 section. If the applicant elects to utilize the services of a private professional provider,  
75 the regulatory fees associated with such regulatory action shall be reduced by 50 percent  
76 and such reduced amount shall be paid to the county or municipality in accordance with  
77 such jurisdiction's policies.

78 (6) If the county or municipality determines that the personnel employed or contracted  
79 by such county or municipality can provide regulatory action or inspection services  
80 within the time frames required under paragraph (4) of this subsection, a convenience fee  
81 not to exceed the full amount of the regulatory fees associated with such regulatory action  
82 shall be paid to the county or municipality in accordance with such jurisdiction's policies.  
83 Upon payment in full of the convenience fees associated with the complete application,  
84 the applicant may nevertheless choose to retain, at its own expense, a private professional  
85 provider to provide the required plan review or inspection, subject to the requirements set  
86 forth in this Code section.

87 ~~(7) If a governing authority of a county or municipality cannot provide review of the~~  
88 ~~documents intended to demonstrate that the structure to be built is in compliance with the~~  
89 ~~Georgia State Minimum Standard Codes most recently adopted by the Department of~~  
90 ~~Community Affairs and any locally adopted ordinances and amendments to such codes~~  
91 ~~within 30 business days of receiving a written application for permitting in accordance~~  
92 ~~with the code official's plan submittal process or inspection services within two business~~  
93 ~~days of receiving a valid written request for inspection, then, in lieu of plan review or~~  
94 ~~inspection by personnel employed by such governing authority, any person, firm, or~~  
95 ~~corporation engaged in a construction project which requires plan review or inspection~~

96 shall have the option of retaining, at its own expense, a private professional provider to  
97 provide the required plan review or inspection. As used in this subsection, the term  
98 'private professional provider' means a professional engineer who holds a certificate of  
99 registration issued under Chapter 15 of Title 43 or a professional architect who holds a  
100 certificate of registration issued under Chapter 4 of Title 43, who is not an employee of  
101 or otherwise affiliated with or financially interested in the person, firm, or corporation  
102 engaged in the construction project to be reviewed or inspected. The local governing  
103 authority shall advise the permit applicant in writing if requested by the applicant at the  
104 time the complete submittal application for a permit in accordance with the code official's  
105 plan submittal process is received that the local governing authority intends to complete  
106 the required plan review within the time prescribed by this paragraph or that the applicant  
107 may immediately secure the services of a private professional provider to complete the  
108 required plan review pursuant to this subsection. The plan submittal process shall include  
109 those procedures and approvals required by the local jurisdiction before plan review can  
110 take place. If the local governing authority states its intent to complete the required plan  
111 review within the time prescribed by this paragraph, the applicant shall not be authorized  
112 to use the services of a private professional provider as provided in this subsection. The  
113 permit applicant and the local governing authority may agree by mutual consent to extend  
114 the time period prescribed by this paragraph for plan review if the characteristics of the  
115 project warrant such an extension. However, ~~if~~ If the local governing authority states its  
116 intent to complete the required plan review within the time prescribed by this paragraph  
117 (4) of this subsection, or any extension thereof mutually agreed to by the applicant and  
118 the governing authority, and does not permit the applicant to use the services of a private  
119 professional provider and the local governing authority fails to complete such plan review  
120 in the time prescribed by this paragraph (4) of this subsection, or any extension thereof  
121 mutually agreed to by the applicant and the governing authority, the local governing  
122 authority shall issue the applicant a project initiation permit. The local governing  
123 authority shall be allowed to limit the scope of a project initiation permit and limit the  
124 areas of the site to which the project initiation permit may apply but shall permit the  
125 applicant to begin work on the project, provided that portion of the initial phase of work  
126 is compliant with applicable codes, laws, and rules. ~~If a full permit is not issued for the~~  
127 ~~portion requested for permitting, then the governing authority shall have an additional 20~~  
128 ~~business days to complete the review and issue the full permit.~~ If the plans submitted for  
129 permitting are denied for any deficiency, the time frames and process for resubmittal shall  
130 be governed by subparagraphs (C) through (E) of paragraph ~~(7)~~ (13) of this subsection.  
131 ~~On or before July 1, 2007, the Board of Natural Resources shall adopt rules and~~  
132 ~~regulations governing the review of erosion and sedimentation control plans under Part~~

133 ~~9 of Chapter 7 of Title 12 to establish appropriate time frames for the submission and~~  
 134 ~~review of revised plan submittals where a deficiency or deficiencies in the submitted~~  
 135 ~~plans have been identified by the governing authority. Any delay in the processing of an~~  
 136 ~~application that is attributable to a cause outside the control of the county or municipality~~  
 137 ~~that is processing the application or through fault of the applicant shall not count toward~~  
 138 ~~days for the purposes of this subsection.~~

139 ~~(2)(8)~~ Any plan review or inspection conducted by a private professional provider shall  
 140 be no less extensive than plan reviews or inspections conducted by county or municipal  
 141 personnel.

142 ~~(3)(9)~~ The person, firm, or corporation retaining a private professional provider to  
 143 conduct a plan review or an inspection shall be required to pay to the county or  
 144 municipality which requires the plan review or inspection the ~~same~~ regulatory fees and  
 145 charges ~~which would have been required had the plan review or inspection been~~  
 146 ~~conducted by a county or municipal inspector~~ which are required by either paragraph (5)  
 147 or (6) of this subsection, as applicable.

148 ~~(4)(10)~~ A private professional provider performing plan reviews under this subsection  
 149 shall review ~~construction~~ plans to determine compliance with ~~the Georgia State Minimum~~  
 150 ~~Standard Codes most recently adopted by the Department of Community Affairs and any~~  
 151 ~~locally adopted ordinances and amendments to such codes~~ all applicable regulatory  
 152 requirements. Upon determining that the plans reviewed comply with the applicable  
 153 ~~codes~~ regulatory requirements, such private professional provider shall prepare an  
 154 affidavit or affidavits on a form adopted by the Department of Community Affairs  
 155 certifying under oath that the following is true and correct to the best of such private  
 156 professional provider's knowledge and belief and in accordance with the applicable  
 157 professional standard of care:

158 (A) The plans were reviewed by the affiant who is duly authorized to perform plan  
 159 review pursuant to this subsection and who holds the appropriate license or  
 160 certifications and insurance coverage stipulated in this subsection;

161 (B) The plans comply with ~~the Georgia State Minimum Standard Codes most recently~~  
 162 ~~adopted by the Department of Community Affairs and any locally adopted ordinances~~  
 163 ~~and amendments to such codes~~ all applicable regulatory requirements; and

164 (C) The plans submitted for plan review are in conformity with plans previously  
 165 submitted to obtain governmental approvals required in the plan submittal process and  
 166 do not make a change to the project reviewed for such approvals.

167 ~~(5)(11)~~ All private professional providers providing plan review or inspection services  
 168 pursuant to this subsection shall secure and maintain insurance coverage for professional  
 169 liability (errors and omissions) insurance. The limits of such insurance shall be not less

170 than \$1 million per claim and \$1 million in aggregate coverage for any project with a  
 171 construction cost of \$5 million or less and \$2 million per claim and \$2 million in  
 172 aggregate coverage for any project with a construction cost of more than \$5 million.  
 173 Such insurance may be a practice policy or project-specific coverage. If the insurance  
 174 is a practice policy, it shall contain prior acts coverage for the private professional  
 175 provider. If the insurance is project-specific, it shall continue in effect for two years  
 176 following the issuance of the certificate of final completion for the project. A local  
 177 enforcement agency, local building official, or local government may establish, for  
 178 private professional providers working within that jurisdiction, a system of registration  
 179 listing the private professional providers within their stated areas of competency ~~and~~  
 180 ~~verifying~~. The permit applicant shall verify compliance with the insurance requirements  
 181 of this ~~subsection~~ paragraph.

182 ~~(6)(12)~~ The private professional provider shall be empowered to perform any plan  
 183 review or inspection required by the governing authority of any county or municipality,  
 184 including, but not limited to, inspections for footings, foundations, concrete slabs,  
 185 framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any  
 186 and all other inspections necessary or required to determine compliance with all  
 187 regulatory requirements and for the issuance of a building permit or certificate of  
 188 occupancy by the governing authority of any county or municipality, provided that the  
 189 plan review or inspection is within the scope of such private professional provider's area  
 190 of competency. Nothing in this Code section shall authorize any private professional  
 191 provider to issue a certificate of occupancy. Only a local governing authority shall be  
 192 authorized to issue a certificate of occupancy.

193 ~~(7)(A)(13)(A)~~ The permit applicant shall submit a copy of the private professional  
 194 provider's plan review report to the county or municipality within five days of its  
 195 completion. Such plan review report shall include at a minimum all of the following:

- 196 (i) The affidavit of the private professional provider required pursuant to this  
 197 subsection;
- 198 (ii) The applicable fees; and
- 199 (iii) Any documents required by the local official and any other documents necessary  
 200 to determine that the permit applicant has secured all other governmental approvals  
 201 required by law.

202 (B) No more than 30 ~~business~~ days after receipt of both a permit application and the  
 203 affidavit from the private professional provider required pursuant to this subsection, the  
 204 local building official shall issue the requested permit or provide written notice to the  
 205 permit applicant identifying the specific plan features that do not comply with the  
 206 applicable ~~codes~~ regulatory requirements, as well as the specific code chapters and



207 sections of such regulatory requirements. If the local building official does not  
 208 provide a written notice of the plan deficiencies within the prescribed 30 day period,  
 209 the permit application shall be deemed approved as a matter of law and the permit shall  
 210 be issued by the local building official on the next business day.

211 (C) If the local building official provides a written notice of plan deficiencies to the  
 212 permit applicant within the prescribed 30 day period, the 30 day period shall be tolled  
 213 pending resolution of the matter. To resolve the plan deficiencies, the permit applicant  
 214 may elect to dispute the deficiencies pursuant to this subsection or to submit revisions  
 215 to correct the deficiencies.

216 (D) If the permit applicant submits revisions to address the plan deficiencies previously  
 217 identified, the local building official shall have the remainder of the tolled 30 day  
 218 period plus an additional five business days to issue the requested permit or to provide  
 219 a second written notice to the permit applicant stating which of the previously identified  
 220 plan features remain in noncompliance with the applicable ~~codes~~ regulatory  
 221 requirements, with specific reference to the relevant code chapters and sections of such  
 222 regulatory requirements. If the local building official does not provide the second  
 223 written notice within the prescribed time period, the permit shall be issued by the local  
 224 building official on the next business day. In the event that the revisions required to  
 225 address the plan deficiencies or any additional revisions submitted by the applicant  
 226 require that new governmental approvals be obtained, the applicant shall be required  
 227 to obtain such approvals before a new plan report can be submitted.

228 (E) If the local building official provides a second written notice of plan deficiencies  
 229 to the permit applicant within the prescribed time period, the permit applicant may elect  
 230 to dispute the deficiencies pursuant to this subsection or to submit additional revisions  
 231 to correct the deficiencies. For all revisions submitted after the first revision, the local  
 232 building official shall have an additional five business days to issue the requested  
 233 permit or to provide a written notice to the permit applicant stating which of the  
 234 previously identified plan features remain in noncompliance with the applicable ~~codes~~  
 235 regulatory requirements, with specific reference to the relevant code chapters and  
 236 sections.

237 ~~(8)~~(14) Upon submission by the private professional provider of a copy of his or her  
 238 inspection report to the local governing authority, said local governing authority shall be  
 239 required to accept the inspection of the private professional provider without the necessity  
 240 of further inspection or approval by the inspectors or other personnel employed by the  
 241 local governing authority unless said governing authority has notified the private  
 242 professional provider, within two business days after the submission of the inspection  
 243 report, that it finds the report incomplete or the inspection inadequate and has provided

244 the private professional provider with a written description of the deficiencies and  
 245 specific ~~code~~ regulatory requirements that have not been adequately addressed.

246 ~~(9)~~(15) A local governing authority may provide for the prequalification of private  
 247 professional providers who may perform plan reviews or inspections pursuant to this  
 248 subsection. No ordinance implementing prequalification shall become effective until  
 249 notice of the governing authority's intent to require prequalification and the specific  
 250 requirements for prequalification have been advertised in the newspaper in which the  
 251 sheriff's advertisements for that locality are published, and by any other methods such  
 252 local authority ordinarily utilizes for notification of engineering, architecture, or  
 253 construction related solicitations. The ordinance implementing prequalification shall  
 254 provide for evaluation of the qualifications of a private professional provider only on the  
 255 basis of the private professional provider's expertise with respect to the objectives of this  
 256 subsection, as demonstrated by the private professional provider's experience, education,  
 257 and training. Such ordinance may require a private professional provider to hold  
 258 additional certifications, provided that such certifications are required by ordinance for  
 259 plan review personnel currently directly employed by such local governing authority.

260 ~~(10)~~(16) Nothing in this subsection shall be construed to limit any public or private right  
 261 of action designed to provide protection, rights, or remedies for consumers.

262 ~~(11)~~(17) This subsection shall not apply to hospitals, ambulatory health care centers,  
 263 nursing homes, jails, penal institutions, airports, buildings or structures that impact  
 264 national or state homeland security, or any building defined as a high-rise building in the  
 265 State Minimum Standards Code; provided, however, that interior tenant build-out projects  
 266 within high-rise buildings are not exempt from this subsection.

267 ~~(12)~~(18) If the local building official determines that the building construction or plans  
 268 do not comply with the applicable ~~codes~~ regulatory requirements, the official may deny  
 269 the permit or request for a certificate of occupancy or certificate of completion, as  
 270 appropriate, or may issue a stop-work order for the project or any portion thereof as  
 271 provided by law, after giving notice to the owner, the architect of record, the engineer of  
 272 record, or the contractor of record and by posting a copy of the order on the site of the  
 273 project and opportunity to remedy the violation within the time limits set forth in the  
 274 notice, if the official determines noncompliance with ~~state or local laws, codes, or~~  
 275 ordinances regulatory requirements, provided that:

276 (A) ~~The~~ A local building official shall be available to meet with the private  
 277 professional provider within two business days to resolve any dispute after issuing a  
 278 stop-work order or providing notice to the applicant denying a permit or request for a  
 279 certificate of occupancy or certificate of completion; and

280 (B) If the local building official and the private professional provider are unable to  
 281 resolve the dispute or meet within the time required by this Code section, the matter  
 282 shall be referred to the local enforcement agency's board of appeals, if one exists, which  
 283 shall consider the matter not later than its next scheduled meeting. Any decisions by  
 284 the local official, if there is no board of appeals, may be appealed to the Department of  
 285 Community Affairs as provided in this chapter. The Department of Community Affairs  
 286 shall develop rules and regulations which shall establish reasonable time frames and  
 287 fees to carry out the provisions of this paragraph.

288 ~~(13)~~(19) The local government, ~~the~~ a local building official, and local building code  
 289 enforcement personnel and agents of the local government shall be immune from liability  
 290 to any person or party for any action or inaction by an owner of a building or by a private  
 291 professional provider or its duly authorized representative in connection with ~~building~~  
 292 ~~code~~ plan review and inspection services by private professional providers as provided  
 293 in this subsection.

294 ~~(14)~~(20) No local enforcement agency, local code official, or local government shall  
 295 adopt or enforce any rules, procedures, policies, qualifications, or standards more  
 296 stringent than those prescribed in this subsection. This subsection shall not preempt any  
 297 local laws, rules, or procedures relating to the plan submittal process of local governing  
 298 authorities.

299 ~~(15)~~(21) Nothing in this subsection shall limit the authority of ~~the~~ a local code official  
 300 to issue a stop-work order for a building project or any portion of such project, which  
 301 may go into effect immediately as provided by law, after giving notice and opportunity  
 302 to remedy the violation, if the official determines that a condition on the building site  
 303 constitutes an immediate threat to public safety and welfare. A ~~stop-work~~ stop-work  
 304 order issued for reasons of immediate threat to public safety and welfare shall be  
 305 appealable to the local enforcement agency's board of appeals, if one exists, in the manner  
 306 provided by applicable law. Any decisions by the local official, if there is no board of  
 307 appeals, may be appealed to the Department of Community Affairs as provided in this  
 308 chapter.

309 ~~(16)~~(22) When performing ~~building code~~ plan reviews or inspection services, a private  
 310 professional provider is subject to the disciplinary guidelines of the applicable  
 311 professional licensing board with jurisdiction over such private professional provider's  
 312 license or certification under Chapters 4 and 15 of Title 43, as applicable. Any complaint  
 313 processing, investigation, and discipline that arise out of a private professional provider's  
 314 performance of ~~building code~~ plan reviews or inspection services shall be conducted by  
 315 the applicable professional licensing board. Notwithstanding any disciplinary rules of the  
 316 applicable professional licensing board with jurisdiction over such private professional

317 provider's license or certification under Chapters 4 and 15 of Title 43, any local building  
 318 official may decline to accept ~~building code~~ plan reviews or inspection services submitted  
 319 by any private professional provider who has submitted multiple reports which required  
 320 revisions due to negligence, noncompliance, or deficiencies.

321 ~~(17)(23)~~ Nothing in this subsection shall apply to inspections exempted in Code Section  
 322 8-2-26.1.

323 (24) To the extent that a provision of this Code section conflicts with requirements of  
 324 federal laws or regulations or impairs a county's or municipality's receipt of federal funds,  
 325 such provision shall not apply."

### 326 SECTION 3.

327 Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to control of soil  
 328 erosion and sedimentation, is amended by revising paragraph (1) of subsection (a) and  
 329 subsection (c) of Code Section 12-7-8, relating to certification of locality as local issuing  
 330 authority, periodic review, procedure for revoking certification, and enforcement actions, as  
 331 follows:

332 "(a)(1) If a county or municipality has enacted ordinances which meet or exceed the  
 333 standards, requirements, and provisions of this chapter and the state general permit,  
 334 except that the standards, requirements, and provisions of the ordinances for monitoring,  
 335 reporting, inspections, design standards, turbidity standards, education and training, and  
 336 project size thresholds with regard to education and training requirements shall not  
 337 exceed the state general permit requirements, and which are enforceable by such county  
 338 or municipality, and if a county or municipality documents that it employs or contracts  
 339 with qualified personnel to implement enacted ordinances, the director ~~may~~ shall certify  
 340 such county or municipality as a local issuing authority for the purposes of this chapter."

341 "(c) The board, on or before December 31, 2003, shall promulgate rules and regulations  
 342 setting forth the requirements and standards for certification and the procedures for  
 343 decertification of a local issuing authority. The division may periodically review the  
 344 actions of counties and municipalities which have been certified as local issuing authorities  
 345 pursuant to subsection (a) of this Code section. Such review may include, but shall not be  
 346 limited to, review of the administration and enforcement of and compliance with a  
 347 governing authority's ordinances and review of conformance with an agreement, if any,  
 348 between the district and the governing authority. If such review indicates that the  
 349 governing authority of any county or municipality certified pursuant to subsection (a) of  
 350 this Code section has not administered, enforced, or complied with its ordinances or has  
 351 not conducted the program in accordance with ~~any agreement entered into pursuant to~~  
 352 subsection (e) of Code Section 12-7-7, the division shall notify the governing authority of

353 the county or municipality in writing. The governing authority of any county or  
354 municipality so notified shall have 90 days within which to take the necessary corrective  
355 action to retain certification as a local issuing authority. If the county or municipality does  
356 not take necessary corrective action within 90 days after notification by the division, the  
357 division shall revoke the certification of the county or municipality as a local issuing  
358 authority."

359 **SECTION 4.**

360 All laws and parts of laws in conflict with this Act are repealed.



Attachment 3: Model GMA Ordinance modified for Stonecrest

This model private permitting ordinance for creating a prequalified list of plan review and inspection companies is provided only for general informational purposes and to assist Georgia cities in ensuring that quality of work is not compromised when third-parties are used. The ordinance is not and should not be treated as legal advice. This model ordinance has been developed in response to House Bill 493 from the 2019-2020 legislative session. This model also has numerous provisions which will need to be amended to fill in information in order for the ordinance to have any bearing. You should consult with your legal counsel before drafting or adopting any ordinance and before taking any action based on this model. (April 2020)



**Model Ordinance**  
**Private Permitting Prequalification**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF **STONECREST**, GEORGIA TO PROVIDE REQUIREMENTS FOR PREQUALIFICATION OF PRIVATE PERMITTING REVIEW AND INSPECTION; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

Pursuant to O.C.G.A. §8-2-26(g) (hereinafter the "State Act"), the **Procurement Department** shall be authorized to prequalify any private professionals prior to them completing plan review and inspection services for permit applicants who have selected a third-party provider. Private professional providers must be certified professional engineers or certified professional architects who are not engaged in the project seeking the permit. Additional certifications can be required of prequalified private professionals if those same requirements are imposed on the municipal employees completing the plan review or inspection.

## Section 1. Definitions

For purposes of this Third-party Inspection Ordinance, the following definitions shall apply unless the context clearly indicates otherwise:

- (a) *Approved Third-party Inspectors and Plans Reviewer List.* A list maintained by the **Procurement Department** comprised of the names of Approved Third-party Inspectors and Plans Reviewers that have complied with the application and renewal requirements of the City and have been approved to perform Third-party Inspections and Plans Review pursuant to this article.
- (b) *Approved Third-party Inspector.* A Registered Professional Engineer or Registered Professional Architect that has complied with the application and renewal requirements of **Stonecrest, Georgia** and has been approved to perform Third-party Inspections pursuant to this article. An Approved Third-party Inspector is intended to constitute a "private professional provider" for the purposes of performing inspections as described in the State Act.
- (c) *Approved Third-party Plans Reviewer.* A Registered Professional Engineer or Registered Professional Architect that has complied with the application and renewal requirements of **Stonecrest, Georgia** and has been approved to perform Third-party Plans Review pursuant to this article. An Approved Third-party Plans Reviewer is intended to constitute a "private professional provider" for the review of reviewing building construction plans as described in the State Act.
- (d) *City.* The City of **Stonecrest, Georgia**.
- (e) *Complete Application.* For purposes of processing applications in compliance with the State Act, an application submitted to **the Procurement Department** shall not be considered complete until all applicable fees have been paid, and all applicable reviewing agencies have received the application and provided any required approvals. For each permit type, **Stonecrest, Georgia** shall establish and publish the requirements of a complete application.
- (f) *Convenience Fees.* Fees established by **Stonecrest, Georgia** to be paid to the **Procurement Department** upon the election by an applicant to use a Third-party Inspector or Third-party Plans Reviewer or despite the **Planning & Zoning Department** otherwise being able to provide inspection and plan review services within the time frames required by the State Act. Such fees shall be the same amount as any Regulatory Fees assessed by **Stonecrest, Georgia** for inspections and plan review services performed by the **Planning & Zoning Department**.
- (g) *Department.* **Code Enforcement** or such other department as may be assigned by the city manager the responsibility of performing inspections and overseeing the third-party inspection and plans review system described herein.
- (h) *Inspection.* The observance of work and the performance of test for certain components and elements to establish conformance with City approved construction documents, building codes and ordinances adopted by City, and the requirements of the state minimum standards as adopted and amended by the Georgia Department of Community Affairs.
- (i) *Inspection Certification.* A written statement signed by an Approved Third-party Inspector or his or her approved Technician, which shall indicate that the item(s) being inspected, in the Approved Third-party Inspector's professional opinion and

to the best of their knowledge, complies with City approved construction documents, building codes and ordinances adopted by City, the requirements of the state minimum standards as adopted and amended by the Georgia Department of Community Affairs, and any other applicable inspections that are typically performed by Inspectors employed by City.

- (j) *Inspection Field Report.* A written report prepared by an Approved Third-party Inspector or a Technician working under the direct supervision of an Approved Third-party Inspector describing the work conducted and findings of an inspection performed by an Approved Third-party Inspector or a Technician working under the direct supervision of an Approved Third-party Inspector.
- (k) *Plans Review Affidavit.* A written affidavit on a form adopted by the Georgia Department of Community Affairs that is completed and signed under oath by an Approved Third-party Plans Reviewer, which shall indicate the plans which have been reviewed for the purpose of a building permit for the application in question, in the Approved Third-party Plans Reviewer's professional opinion and to the best of their knowledge, complies with the regulatory requirements as designated by City, including the Georgia State Minimum Standard Codes most recently adopted by the Department of Community Affairs and any locally adopted ordinances and amendments to such codes, applicable zoning ordinances and conditions, design standards, and any other applicable laws and regulations that would otherwise be required of staff employed by the City.
- (l) *Registered Professional Architect.* An individual that holds a certificate of registration issued under O.C.G.A. § 43-4-1 et seq.
- (m) *Registered Professional Engineer.* An individual that holds a certificate of registration issued under O.C.G.A. § 43-15-1 et seq.
- (n) *Regulatory Fees.* All fees established by the City to be paid to the City for any regulatory action, inspection services, or plan review services as provided by the State Act and this Article.
- (o) *Technician.* An individual who performs inspections under the direct supervision of an Approved Third-party Inspector.
- (p) *Third-party Inspection and Plans Review Program.* The rules and procedures described in this Third-party Inspection and Plans Review Ordinance.
- (q) *Third-party Plans Review.* Plans review performed in conformance with this program by Approved Third-party Plans Reviewers.
- (r) *Third-party Inspection.* Inspection performed in conformance with this program by Approved Third-party Inspectors.

## **Section 2. Third-party Inspection and Plans Review Program**

- (a) The Department will establish and maintain an Approved Third-party List from whom the Department will accept Third-party Inspections and Third-party Plans Reviews in accordance with this Third-party Inspection and Plans Review Ordinance.
- (b) In full compliance with the requirements of the State Act, City shall allow owners, developers, and contractors to submit Inspection Certifications by Approved Third-

party Inspectors and Plans Review Affidavits by Approved Third-party Plans Reviewers in order to satisfy certain inspection and plans review requirements.

- (c) The Department will only consider Inspection Certifications and Plans Review Affidavits from parties listed on the Approved Third-party List. City makes no representation concerning the Approved Third-party Inspectors and Approved Third-party Plans Reviewers other than that they have submitted evidence showing that they have met the minimum criteria necessary to qualify for the Third-party Inspection and Plans Review Program described herein.
- (d) In order for an Inspection Certification or Plans Review Affidavit to be accepted by the Department for a particular project, an Approved Third-party Inspector or Approved Third-party Plans Reviewer must be independent of and must not be an employee of or otherwise affiliated with or financially interested in the person, firm or corporation engaged in the construction project to be reviewed or inspected.
- (e) The person, firm or corporation retaining an Approved Third-party Inspector or Approved Third-party Plans Reviewer to conduct an inspection or plans review shall be required to pay to City the same Regulatory Fees and charges which would have been required had the inspection or plans review been conducted by a City inspector or plans reviewer. Should the Department determine that it cannot conduct a particular inspection or plans review in a time as determined by the State Act, the applicable Regulatory Fees shall be reduced by fifty percent (50%). Should the Department determine that it can conduct a particular inspection or plans review in a time as determined by the State Act, a Convenience Fee shall be paid to the City. Upon payment in full of the Convenience Fees associated with the complete application, the applicant may nevertheless choose to retain, at its own expense, an Approved Third-party Inspector or Approved Third-party Plans Reviewer to provide the required inspection or plan review, subject to the requirements set forth in this Article. Any Fees or Convenience Fees paid to the City are nonrefundable.
- (f) All other fees and costs related to the performance of the Third-party Inspections or Third-party Plans Review are matters solely between the Approved Third-party Inspector or Approved Third-party Plans Reviewer and the person, firm, or corporation engaging the Approved Third-party Inspector or Approved Third-party Plans Reviewer.
- (g) Notwithstanding the submission of an Inspection Certification or Plans Review Affidavit, the Department retains the authority to make all code interpretations and to monitor the quality of all Third-party Inspections and Third-party Plans Reviews and nothing in this article shall be construed as authorizing any Approved Third-party Inspector or Approved Third-party Plans Reviewer to issue a Certificate of Occupancy.
- (h) The Department will follow all applicable procedures set forth in the State Act for all inspections and plans reviews. For purposes of processing applications in compliance with the State Act, an application submitted to the Department shall not be considered complete until all applicable fees have been paid, and all applicable reviewing agencies have received the application and provided any required approvals.

### **Section 3. Inspections types**

- (a) The Department will, at a minimum, accept Third-party Inspections in compliance with the State Act for any construction inspections required by the City Code of Ordinances. A comprehensive list of the various inspections types, their allowed timing and other related details are established by Department policy. This document is available from the Department and is published on the City website.
- (b) Approved Third-party Inspectors shall be authorized to conduct any inspection required by the City necessary or required to determine compliance with all regulatory requirements and for the issuance of a building permit or certificate of occupancy, provided that the inspection being performed is within the scope of the Approved Third-party Inspector's area of competency. However, nothing in this article shall be construed as authorizing Third-party Inspections for compliance with state or local fire safety standards or erosion control standards.

### **Section 4. Approved Third-party Inspector requirements and qualifications**

- (a) Individuals desiring to be placed on the Approved Third-party Inspectors and Plans Reviewer List as an Approved Third-party Inspector must submit an initial application along with an [application fee as established by City – application fee is optional in the ordinance – up to the municipality to determine] to the Department. Those individuals that are placed on the Approved Third-party Inspectors List must submit a renewal form every [year – renewal period is at the discretion of the municipality] no later than (insert date) thereafter. Individuals that do not timely submit a renewal form shall be removed from the Approved Third-party Inspectors List.
- (b) In order to qualify as an Approved Third-party Inspector, an individual must:
  - (1) Be employed by or be a partner in an engineering or architect firm, in full compliance with City Code of Ordinances, including current occupational tax and registration required thereunder;
  - (2) Be a Registered Professional Engineer or a Registered Professional Architect as defined in this article;
  - (3) Otherwise be in good standing with all pertinent certification and professional accreditation boards;
  - (4) Possess and maintain minimum insurance as described herein; and
  - (5) Demonstrate relevant experience of at least one (1) year.
- (c) An individual shall not be qualified to be placed on the Approved Third-party List if he or she has had his or her authority to issue third-party Inspection Certifications in any other jurisdictions revoked. If an individual previously qualified to be on the Approved Third-party List and subsequently has his or her authority to issue third-party Inspection Certifications revoked, the individual shall automatically be removed from the Approved Third-party List.



- (d) An Approved Third-party Inspector may not submit an Inspection Certification if the Approved Third-party Inspector is an officer or employee of the owner, developer, contractor or other party or if the Approved Third-party Inspector is employed by or a partner in a firm that is affiliated with or financially interested in the owner, developer, contractor or other party on whose behalf the Inspection Certification is submitted.
- (e) Technicians may perform inspections under the supervision of an Approved Third-party Inspector provided that the technician has satisfied any specific requirements as may be designated by the City building official if those same requirements are imposed on the municipal employees completing the plan review or inspection.
- (f) Technicians performing inspections under the supervision of an Approved Third-party Inspector shall be a certified International Code Council (ICC) Inspector or equivalent if those same requirements are imposed on the municipal employees completing the plan review or inspection
- (g) Approved Third-party Inspectors shall obtain and maintain the following minimum insurance coverages and provisions, evidence of which shall be submitted to the Department with the initial application and each calendar year thereafter.
  - (1) All private professional providers providing inspection services pursuant to this subsection shall secure and maintain insurance coverage for professional liability (errors and omissions) insurance. The limits of such insurance shall be not less than \$1 million per claim and \$1 million in aggregate coverage for any project with a construction cost of \$5 million or less and \$2 million per claim and \$2 million in aggregate coverage for any project with a construction cost of more than \$5 million. Such insurance may be a practice policy or project-specific coverage. If the insurance is a practice policy, it shall contain prior acts coverage for the private professional provider. If the insurance is project-specific, it shall continue in effect for two years following the issuance of the certificate of final completion for the project. The permit applicant shall verify compliance with the insurance requirements of this paragraph. The cancellation provision shall provide for 30 days notice of cancellation.
  - (2) City, Georgia, its officers, officials, employees and representatives shall be named as additional insureds on the required insurance policies for all insurance coverages including but not limited to General Liability, Auto Liability, Employers Liability and Umbrella/Excess coverage, except that additional insured status shall not be required for Professional Liability and Workers Compensation coverages.
  - (3) The required insurance coverage shall be provided by an insurance company at all material times licensed to do business by, and in good standing with, the Georgia Department of Insurance.
  - (4) Approved Third-party Inspectors shall maintain the minimum insurance coverage as required above at all times during which they are listed as Approved Third-party Inspectors. Approved Third-party Inspectors shall provide the Department with evidence of minimum insurance coverages and provisions on an annual basis prior to the expiration of any policy or coverage and upon request by the Department. Should any insurance coverage or information change, the Approved Third-party Inspector shall provide written notice of any such change to the City within ten (10) business days. If at any

time an Approved Third-party Inspector fails to maintain the required insurance coverage, the Department may remove them from the Approved Third-party List.

- (h) Suspension of Technicians and Approved Third-party Inspectors:  
 An individual who performs inspections under this article, whether a Technician or an individual Approved Third-party Inspector, shall be subject to suspension from the Approved Third-party List, and from submitting Inspection Field Reports and Inspection Certifications for the following infractions:
- (1) Providing inspections without appropriate license or certification.
  - (2) Providing inspection services prior to issuance of a valid building permit.
  - (3) Failing to identify any noncompliance with any applicable code, as amended, (including, but not limited to) the International Building Code, International Mechanical Code, International Energy Conservation Code, and Life Safety Code, as determined in the sole good faith discretion of the Chief Building Official of the City. However, it is the express intent of the City not to impose sanctions on an individual under this Article for failing to identify multiple instances of noncompliance in one inspection such as that each such failure constitutes an individual and separate infraction. Rather, multiple failures contained in a single inspection under this paragraph shall be treated as a single infraction.
  - (4) Authorizing any deviation from the approved permit.
  - (5) Falsifying reports.
  - (6) Unauthorized employee performing inspections.
  - (7) Performing unauthorized types of inspections.
  - (8) Inspections passed with hold on project or under stop work order.
  - (9) Failure to identify noncompliance with any applicable code not captured in subsection (3) above, upon identification of such failure by the City on multiple occasions, as determined in the sole good faith discretion of the Chief Building Official of the City.
- (i) Suspension for submitting Inspection Field Reports and Inspection Certifications for infractions by a Technician or individual Approved Third-party Inspector shall be progressive based on the number of infractions in the previous 12-month period. For any combination of infractions within a 12-month period, the following actions and suspensions against a Technician or individual Approved Third-party Inspector shall be assessed:

First Infraction	Warning Letter
Second Infraction	30-Day suspension from eligibility to perform inspections and submit Inspection Field Reports and Inspection Certifications
Third Infraction	90-Day suspension from eligibility to perform inspections and submit Inspection Field Reports and Inspection Certifications

Fourth Infraction	1-Year suspension from eligibility to perform inspections and submit Inspection Field Reports and Inspection Certifications
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- (j) An Approved Third-party Inspector shall be subject to progressive action based on the number of infractions in the previous 24-month period by individuals performing inspections, including the individual Approved Third-party Inspector or any one or more Technicians acting under the supervision of the Approved Third-party Inspector (which shall include Technicians serving as employees, independent contractors, agents, etc.). Violations under this paragraph shall accrue upon every third infraction by an individual contemplated in paragraph (h) above, and shall subject Approved Third-Party Inspectors to the following actions and suspensions for any combination of infractions within a 24-month period:

First Violation (upon third individual infraction)	Written Letter of Reprimand
Second Violation (upon sixth individual infraction)	30-Day suspension from Approved Third-Party Inspector and Plans Reviewer List
Third Violation (upon ninth individual Infraction)	90-Day suspension from Approved Third-Party Inspector and Plans Reviewer List
Fourth Violation (upon twelfth individual infraction)	1-Year suspension from Approved Third-Party Inspector and Plans Reviewer List

The City shall send written notice to the Approved Third-party Inspector for each infraction as contemplated in paragraph (i) above, the purpose of which shall be to inform the Approved Third-party Inspector of the number of infractions accruing under paragraph (i), to put the Approved Third-party Inspector on notice of possible violations under this paragraph (j), and so the Approved Third-party Inspector has the opportunity to take any remedial action necessary to prevent future infractions and/or violations.

- (k) Notwithstanding any other provision of this Article, in the event a Technician or individual Approved Third-party Inspector is found to have falsified a report or where life safety issues were not identified, the progressive actions and suspensions of this Article may, in the discretion of the City, be bypassed with an immediate suspension and/or disqualification imposed.
- (l) Appeal of suspensions and/or disqualifications shall be processed through the (insert appropriate board, commission or governing body as determined by the municipality).

### **Section 5. Procedures for conducting Third-Party Inspections**

- (a) An Approved Third-party Inspector shall not suggest, direct, or authorize any deviation from approved construction documents without first obtaining approval from the Department.
- (b) The following procedures shall apply to all Third-party Inspections:
  - (1) **The most recent process and procedure as established by the Procurement Department.**
- (c) The Department shall have a right of entry to any premises inspected by an Approved Third-party Inspector or Technician to ensure compliance with this Article and the State Act.

### **Section 6. Approved Third-party Plans Reviewer requirements and qualifications**

- (a) Individuals wishing to be placed on the Approved Third-party List as an Approved Plans Reviewer must submit an initial application along with an [application fee – if an application fee is required by municipality] as established by the City to the Department.
- (b) In order to qualify as an Approved Third-party Plans Reviewer, an individual must:
  - (1) Be, or be a partner in or employed by, an engineering or architect firm, in full compliance with City, Georgia Code of Ordinances, including current occupational tax and registration required thereunder;
  - (2) Be a Registered Professional Engineer or Registered Professional Architect as defined in this article;
  - (3) Otherwise be in good standing with all pertinent certification and professional accreditation boards;
  - (4) Possess and maintain minimum insurance as described herein; and
  - (5) Demonstrate relevant experience of at least one (1) year.
- (c) An individual shall not be qualified to be placed on the Approved Third-party List if he or she has had his or her authority to issue third-party Plans Review Affidavits in any other jurisdictions revoked. If an individual previously qualified to be on the Approved Third-party List and subsequently has his or her authority to issue third-party Plans Review Affidavits revoked, the individual shall be removed from the Approved Third-party Inspectors and Plans Reviewer List.
- (d) An Approved Third-party Plans Reviewer may not submit a Plans Review Affidavit if the Approved Third-party Plans Reviewer is an officer or employee of the owner, developer, contractor or other party or if the Approved Third-party Plans Reviewer is employed by or a partner in a firm that is affiliated with or financially interested in the owner, developer, contractor or other party on whose behalf the Plans Review Affidavit is submitted.
- (e) All private professional providers providing plan review services pursuant to this subsection shall secure and maintain insurance coverage for professional liability (errors and omissions) insurance. The limits of such insurance shall be not less than \$1 million per claim and \$1 million in aggregate coverage for any project with a construction cost of \$5 million or less and \$2 million per claim and \$2 million in aggregate coverage for any project with a construction cost of more than \$5 million.

Such insurance may be a practice policy or project-specific coverage. If the insurance is a practice policy, it shall contain prior acts coverage for the private professional provider. If the insurance is project-specific, it shall continue in effect for two years following the issuance of the certificate of final completion for the project. The permit applicant shall verify compliance with the insurance requirements of this paragraph. The cancellation provision shall provide for 30 days notice of cancellation.

- (f) City, Georgia, its officers, officials, employees and representatives shall be named as additional insureds on the required insurance policies for all insurance coverages including but not limited to General Liability, Auto Liability, Employers Liability and Umbrella/Excess coverage, except that additional insured status shall not be required for Professional Liability and Workers Compensation coverages.
- (g) The required insurance coverage shall be provided by an insurance company at all material times licensed to do business by, and in good standing with, the Georgia Department of Insurance.
- (h) Approved Third-party Plan Reviewers shall maintain the minimum insurance coverage as required above at all times during which they are listed as Approved Third-party Plan Reviewers. Approved Third-party Plan Reviewers shall provide the Department with evidence of minimum insurance coverages and provisions on an annual basis prior to the expiration of any policy or coverage and upon request by the Department. Should any insurance coverage or information change, the Approved Third-party Plan Reviewer shall provide written notice of any such change to the City within ten (10) business days. If at any time an Approved Third-party Plan Reviewer fails to maintain the required insurance coverage, the Department may remove them from the Approved Third-party List.
- (i) Suspension of Approved Third-party Plans Reviewers:

An individual who performs plans review under this article shall be subject to suspension from the Approved Third-party List, and from submitting Plans Review Affidavits for the following infractions:

- (1) Providing plans reviews without appropriate license or certification.
- (2) Failing to identify any noncompliance with any applicable code, as amended, (including, but not limited to), the International Building Code, International Mechanical Code, International Energy Conservation Code, and Life Safety Code as determined in the sole good faith discretion of the Chief Building Official of the City. However, it is the express intent of the City not to impose sanctions on an individual under this Article for failing to identify multiple instances of noncompliance in one inspection such as that each such failure constitutes an individual and separate infraction. Rather, multiple failures contained in a single inspection under this paragraph shall be treated as a single infraction.
- (3) Falsifying Plans Review.
- (4) Performing unauthorized types of plan reviews.

- (j) Suspension for submitting Plans Review Affidavits for infractions by an Approved Third-party Plans Reviewer shall be progressive based on the number of infractions in the previous 12-month period. For any combination of infractions within a 12-month period, the following actions and suspensions against an Approved Third-party Plans Reviewer shall be assessed:

First Infraction	Written Letter of Reprimand
Second Infraction	30-Day suspension from Approved Third-Party Inspector and Plans Reviewer List
Third Infraction	90-Day suspension from Approved Third-Party Inspector and Plans Reviewer List
Fourth Infraction	1-Year suspension from Approved Third-Party Inspector and Plans Reviewer List

The City shall send written notice to the Approved Third-party Plans Reviewer for each infraction as contemplated in paragraph (j) above, the purpose of which shall be to inform the Approved Third-party Plans Reviewer of the number of infractions accruing under paragraph (j) and so the Approved Third-party Plans Reviewer has the opportunity to take any corrective action necessary to prevent future infractions.

- (k) Notwithstanding any other provision of this Article, in the event an Approved Third-party Plans Reviewer is found to have falsified Plans Review Affidavits or where life safety issues were not identified, progressive actions and suspensions of this Article may, in the discretion of the City, be bypassed with an immediate suspension and/or disqualification imposed.
- (l) Appeal of suspensions and/or disqualifications shall be processed through the (insert appropriate board, commission or governing body as determined by the municipality).

**Section 7. Procedures for conducting Third-party Plan Reviews**

- (a) Any plan review conducted by an Approved Third-party Plans Reviewer shall be no less extensive than plan reviews conducted by City personnel.
- (b) The following procedures shall apply to all Third-party Plans Review:
- (1) The most recent process and procedure as established by the Procurement Department.



## Section 8. Appeals

- (a) If the local building official and the private professional provider are unable to resolve a dispute or meet within the time required by the State Act, the matter shall be referred to the board of appeals.
- (b) The board of appeals shall be a quasi-judicial board of the city and shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the city manager in the enforcement of the State Act.
- (c) *Membership/residency.* The board of appeals shall consist of three regular members, and two alternate members, appointed by the mayor. The members shall serve for overlapping terms of three years. The chair shall be elected by the board from its membership. The board shall adopt rules in accordance with the provisions of this ordinance for the conduct of its affairs. Members shall have been continuous residents, property owners or business owners within the city for not less than six months prior to appointment. Members shall have either professional or academic credentials and experience that will serve to assist them in their duties as a member of the board of appeals.
- (d) *Appeals, hearings, and notice.* All questions arising in connection with the interpretation and enforcement of this Code shall first be presented to the city manager, and that such questions shall be presented to the board of appeals only on appeal from the decision of the city manager, and that from the decision of the board of appeals, recourse shall be as provided by state law. The city manager shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.
- (e) Appeals to these regulations may be taken to the board of appeals by the local building official, the private professional provider, or the owner of the subject building.
- (f) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of appeals, after the notice of appeal shall have been filed with the officer, that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application, on notices to the officer from whom the appeal is taken, and on due cause shown.
- (g) The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person, or by agent, or by attorney.
- (h) Nothing in this subsection shall limit the authority of the a local code official to issue a stop-work order for a building project or any portion of such project, which may go into effect immediately as provided by law, after giving notice and opportunity to remedy the violation, if the official determines that a condition on the building site constitutes an immediate threat to public safety and welfare.

**SECTION 9**

Except as provided otherwise herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 10**

This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

**SECTION 11**

This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of Stonecrest, Georgia.

SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CITY OF **STONECREST, GEORGIA**

By: \_\_\_\_\_

Mayor

ATTEST: \_\_\_\_\_



## CITY COUNCIL AGENDA ITEM

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**SUBJECT: TMOD-21-008, Administration**

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**AGENDA SECTION:** *(check all that apply)*

**PRESENTATION**     **PUBLIC HEARING**     **CONSENT AGENDA**     **OLD BUSINESS**  
 **NEW BUSINESS**     **OTHER, PLEASE STATE:**

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**CATEGORY:** *(check all that apply)*

**ORDINANCE**     **RESOLUTION**     **CONTRACT**     **POLICY**     **STATUS REPORT**  
 **OTHER, PLEASE STATE: Text Amendment**

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**ACTION REQUESTED:**     **DECISION**     **DISCUSSION ONLY**

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**Current Work Session: Monday, October 11, 2021**

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**SUBMITTED BY:** Jim Summerbell, AICP – Planning & Zoning Director

**PRESENTER:** Jim Summerbell

**PURPOSE:** Update City Council on action taken on TMOD-21-008, Administration, by the Planning Commission on September 7, 2021.

**FACTS:** Proposed text amendment to the Stonecrest Code of Ordinances, Chapter 27, Article 7 – Administration regarding application procedures, training requirements for commission and board members, and public notification of rezoning and building activity. The Planning Commission voted unanimously to defer to the City Council with the recommendation that City Council consider adding a provision for stipends for commission and board members.

**OPTIONS:** N/A, Discussion Only

**RECOMMENDED ACTION:** None at this time.

**ATTACHMENTS:**

- (1) Attachment 1 - TMOD-21-008 Staff Report
- (2) Attachment 2 - Proposed changes to Article 7 - Administration

Attachment 1, TMOD-21-008 - Staff report to the Planning Commission, Sept 7, 2021



## PLANNING & ZONING STAFF REPORT

MEETING DATE: September 7, 2021

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### GENERAL INFORMATION

- Petition Number:** TMOD 21-008\*
- Applicant:** Stonecrest Planning and Zoning Department
- Project Location:** City-Wide
- Proposed amendment:** Amendments to Stonecrest Zoning Ordinance, Chapter 27 Article 7 – Administration regarding application procedures, training requirements for commission and board members, and public notification of the rezoning and building activity.

### FACTS AND ISSUES:

The draft Zoning Ordinance presented to the City Council in March 2020 and prepared by The Collaborative Firm, included amendments to application procedures and two new provisions related to public notification. These amendments were later presented to the City Council with some modifications on August 13, 2021 at their Special Called Work Session, and some minor modifications were made based on feedback.

**RECOMMENDED ACTION:** Recommend Approval to the City Council

### ATTACHMENTS:

1. Proposed Changes to Article 7 - Administration

\* Note – this TMOD was renumbered from TMOD-21-011 as presented to City Council at their Special Called Work Session on August 13, 2021 to maintain sequential numbering with previously adopted text amendments.

Attachment 2, TMOD-21-008, Proposed changes to Article 7, Administration



## Attachment 1: Proposed Changes to Article 7 – Administration

### ARTICLE 7. - ADMINISTRATION

#### Sec. 7.1.2. – Governing Bodies

##### B. Training and Education of Boards and Commissions

1. Members of the Planning Commission and Zoning Board of Appeals shall attend by the 365th day of their term of appointment or re-appointment one (1) or more courses, seminars, or other opportunities of training and education on matters pertaining to the operations, activities, or duties of their respective board or commission (Sec 2.6.17.b).

2. Education and training opportunities include, but are not limited to, any organized training or educational activities that in the opinion of the Planning and Zoning Director are relevant to the activities, operations, and duties of said board or commission. (Sec. 2.6.17.e)

#### Sec. 7.2.2. - Applications.

- B. *Processing of said applications.* The processing of said applications shall be based upon an annual calendar adopted by the city council. This calendar shall be made available to the public in the offices of the planning department.
1. The director of planning shall be authorized to establish application submittal requirements necessary to obtain sufficient information to allow for a compliance review of the application as well as forms and instructions for each application type or petition.
  2. No application shall be processed by the planning and zoning director unless it complies with the procedural requirements of this division and is found to be a complete application.

#### Sec. 7.2.4. - Public hearings.

- C. *Zoning decisions, appeals to the zoning board of appeals, variances, extensions of special land use permits, and major modifications of conditions initiated by a party other than the city.* For any zoning decision, appeal to the zoning board of appeals, variance, extension of special land use permits, or major modification of conditions initiated by a party other than the city, notice of the public hearing shall be provided as follows:
1. Written notice of each public hearing shall state the nature of the proposed change, and the date, time, and place of the public hearing before either the planning commission, zoning board of appeals or the city council and shall be mailed by first class mail by the director of planning to all owners of property within one thousand (1000) of the boundaries adjoining the subject property, as such property owners are listed on the records of DeKalb tax commissioner, at least 15 days and not more than 45 days prior to said public hearing.

### Sec. 7.2.5 Community Impact Notification

#### A. Applicability

1. Any development or building project with an aggregate of 12,000 square feet or more of new buildings or a site consisting of two acres or more must meet the Community Impact Notification requirements.
2. This includes any development or building project with an aggregate of 12,000 square feet of construction, or other similar work requiring a building permit within the next 24 months.

#### B. Requirements

1. Council notification. The Chief Building Official shall provide notification to the pertinent district councilmember.
2. Posted notice. Applicant shall place one or more signs in a conspicuous location on the property. At least one sign shall be posted along each street on which the subject property has frontage. One additional sign shall be posted for each additional 500 feet of frontage. Each sign shall contain the location and nature of the proposed project and web address to access and view plans.
3. Written notice. Written notice shall be mailed by first class mail by the Applicant to all owners of property within 1,000 feet of the boundaries of the subject property. The notice shall state the location and nature of the proposed project.



## CITY COUNCIL AGENDA ITEM

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**SUBJECT: FY 21 Financial Update**

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**AGENDA SECTION:** *(check all that apply)*

**PRESENTATION**     **PUBLIC HEARING**     **CONSENT AGENDA**     **OLD BUSINESS**  
 **NEW BUSINESS**     **OTHER, PLEASE STATE:**

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**CATEGORY:** *(check all that apply)*

**ORDINANCE**    **RESOLUTION**    **CONTRACT**    **POLICY**    **STATUS REPORT**  
 **OTHER, PLEASE STATE:**

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**ACTION REQUESTED:**    **DECISION**    **DISCUSSION**,    **REVIEW**, or    **UPDATE ONLY**

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**Previously Heard Date(s):**

**Current Work Session:** Monday, October 11, 2021

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**SUBMITTED BY:** Gia Scruggs, Finance Director

**PRESENTER:** Gia Scruggs

**PURPOSE:** The City’s department directors have made budget presentation to the Budget team and Acting City Manager. The City is in the middle of making a transition from an outsourced operation to performing municipal operations in house. As a result, the Finance Director wanted to provide a financial update to give the Council and the citizens of Stonecrest the confidence that the City is positioned to take on the newest challenge that the City is currently facing. The financial report attached is just the beginning of the types of reporting that will be provided to Council and the public to provide a transparent view into the development and management of the City of Stonecrest’s operational and Capital Project budgets.

**FACTS:**

**OPTIONS:** Discussion only [Click or tap here to enter text.](#)

**RECOMMENDED ACTION:** Discussion only

**ATTACHMENTS:**

(1) Attachment 1 - September 2021 Financial Report



## September 2021 Financial Update

### **GENERAL FUND**

#### **Mayor-Council**

- Internal Auditor Firm is doing preliminary risk assessment and strategic plan.

#### **City Manager**

- There will be additional professional services to assist with transition.

#### **Public Works**

- Some expenses will be moved to the City Manager's Budget to account for Engineering Contract management, augmentation of DeKalb County Service and other services.

#### **Public Safety**

- No expense to this budget for the current fiscal year

#### **Finance/Administration**

- No major fiscal impact of the remainder of the year

#### **Human Resources** –

- HR Consultant – Expenses to be charged to City Manager Professional Services
- Approximately 52 positions are being considered for January 1, 2022
- NeoGov – software purchased for onboard, training, etc.
- Expenditures related to onboarding new hires

#### **Legal Services**

- In discussion with Fincher Denmark regarding the structure of billing
- Significant increase in expenditures due to litigation and audit work

#### **Economic Development**

- No major fiscal Impact for the remainder of the year

### **Facilities/Building**

- Ashley Capital Lease agreement to add additional space for New Hires and Council

### **Communications and Technology**

- Solicitation has closed for Information Technology Support Services.
- Finance will present recommended vendor to Council prior to year end

### **General Operations**

- Unanticipated expenses due to transition to inhouse services will add to the remaining expenditures for FY21 as described below

### **Municipal Court**

- Pending decision on traffic court will have an impact on current processes
- Pending decision on Judges from DeKalb County

### **Parks**

- Notable increase in utilities due to the City purchase of parks.
- Continue to address maintenance needs
- Aftercare program – Recommendation to Council pending

### **Community Development**

- No major fiscal impact for remainder of the fiscal year

### **Business Development**

- No expense to this budget with the exception of the Jacobs line item since the staff changes.

### **Community and Cultural Affairs**

- No expense to this budget with the exception of the Jacobs line item since the staff changes.

### **Code Enforcement**

- Tablets needed for officers to work in the field
- New officers will need additional equipment

### **Building**

- No major fiscal impact for remainder of the year

## **HOTEL MOTEL FUND – 275**

- DMO – Discover DeKalb Contract Ends December 31, 2021

## **SPLOST – 300**

- Fund number needs to be changed to be consistent with UCGA
- FY21 expenditures include \$2 million for Stonecrest Industrial (Home Depot)
- Resurfacing in process
- CERM currently assessing current conditions for Riverbank Stabilization project
- Bus Pad Complete – Marta will be installing shelters
- Early 2021, TD Smith provided services to initiate the design of the Sam’s Location for a potential City Hall/Town Center

## **Unexpected Expenses**

- HR Consultant - \$54,000 – City Manager Professional Services
- Administrative Support \$2,500 – City Manager Professional Services
- Executive Search – City Manager Professional Services
- Furniture, Fixtures, Equipment - General Operations
- Computers/Technology –
  - Computers for new staff
  - Cell Phones for new staff
  - Tablets for Code Enforcement and Building – for mobile services
    - Currently using Jacob’s equipment
- Fleet
  - Fuel Cards
  - Decals
  - Insurance
- New Hires
  - Uniforms – staff apparel for new employees
- Information Support Services Solicitation in progress
  - An assessment of current IT resources and may have expenditures prior to year-end
- Lease Amendment for additional space requirements
  - Increase not anticipated until FY22

## **REVENUE RECOVERY EFFORTS**

- Financial Institution Tax
- Rental Motor Vehicle Tax
- Hotel Motel



**Monthly Financial report thru September 30, 2021**

\*Unaudited

		Budget	Year to Date Actuals thru September 30, 2021
<b>REVENUES</b>			
<b>General Fund 100</b>			
03110	General Property Tax	3062700.00	1,389,184.19
03111	Franchise Fees	2,317,800.00	726,003.66
03140	Selective Sales & Use Tax	109,200.00	103,102.97
03160	Business Taxes	5,177,800.00	125.00
03210	Business License	127,100.00	1,445,853.56
03220	Building/Development Permits/Zoning	1,849,800.00	1,366,068.44
03430	State Government Grants	497,500.00	0.00
03400	General Government	12,100.00	43,607.00
03510	Fines & Forfeitures	0.00	18,733.20
03610	Interest Earned	400.00	505.66
03710	Contributions/Donations	0.00	305.74
03800	Misc Revenue	0.00	0.00
03910	Other Sources of Income	820,825.00	0.00
	<b>TOTAL GENERAL FUND REVENUES</b>	<b>13,975,225.00</b>	<b>5,093,489.42</b>
<b>Hotel Motel 275</b>			
03140	Selective Sales & Use Tax	565,000.00	632,570.81
<b>SPLOST 300</b>			
33100/36100/39100	SPLOST & interest	7,480,300.00	6,544,845.95
<b>TOTAL REVENUES</b>		<b>22,020,525.00</b>	<b>12,270,906.18</b>

Monthly Financial report thru September 30, 2021

\*Unaudited

<b>EXPENDITURES</b>			
<b>General Fund 100</b>			
05110	Mayor & City Council	440,075.00	120,577.94
05130	City Manager office	433,898.00	252,366.19
05131	City Clerk office	246,458.00	111,339.31
05135	Public Works	1,082,613.00	221,105.04
05136	Public Safety	25,000.00	0.00
05151	Finance/Administration	1,011,463.00	427,470.34
05153	Legal Services	620,000.00	499,330.49
05155	Economic Development	379,620.00	126,967.22
05156	Facilities and Buildings	742,500.00	441,577.07
05157	Communications	396,613.00	242,399.11
05158	IT/GIS	462,000.00	290,640.54
05159	General Operations	483,320.00	340,348.93
05900	Designated Reserve	229,259.00	0.00
05160	Municipal Court	0.00	61,910.30
06210	Parks	3,164,205.00	1,112,567.65
07210	Community Development	653,213.00	378,495.70
07220	Business Development	289,980.00	73,209.97
07330	Community & Cultural Affairs	203,000.00	95,504.34
08210	Code Enforcement	1,102,463.00	666,284.10
09210	Building	1,018,745.00	641,149.81
09300	Other financing uses	990,800.00	215,000.00
	<b>TOTAL GENERAL FUND EXPENDITURES</b>	<b>13,975,225.00</b>	<b>6,318,244.05</b>
<b>Hotel Motel 275</b>			
03140	Selective Sales & Use Tax	565,000.00	213,081.42
<b>SPLOST 300</b>			
33100/36100/39100	SPLOST & interest	10,750,000.00	2,398,096.16
<b>TOTAL EXPENDITURES</b>		<b>25,290,225.00</b>	<b>8,929,421.63</b>



## CITY COUNCIL AGENDA ITEM

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**SUBJECT: Setting Council Budget Priorities for FY2022**

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**AGENDA SECTION:** *(check all that apply)*

- PRESENTATION     PUBLIC HEARING     CONSENT AGENDA     OLD BUSINESS  
 NEW BUSINESS     OTHER, PLEASE STATE
- 

**CATEGORY:** *(check all that apply)*

- ORDINANCE     RESOLUTION     CONTRACT     POLICY     STATUS REPORT  
 OTHER, PLEASE STATE:
- 

**ACTION REQUESTED:**  DECISION     DISCUSSION,     REVIEW, or     UPDATE ONLY

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**Previously Heard Date(s):** NA

**Current Work Session:** Monday, October 11, 2021

**Current Council Meeting:** NA

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**SUBMITTED BY:** Janice Allen Jackson, Acting City Manager

**PRESENTER:** Jackson; Gia Scruggs, Finance Director

**PURPOSE:** According to the budget calendar approved last month, staff will seek information from the Mayor and Council regarding priorities for the FY2022 budget at this meeting. We will begin with a list of some topics in which you have expressed interest throughout the year. We will then ask the Mayor and Council to identify other priorities for consideration. We plan to leave the meeting with a list of items to be ranked. Staff will send a ranking tool on Tuesday, Oct. 12. Your rankings will help us to determine which items to include the recommended budget, which is particularly important in the event that there are more priorities than funds available.

**FACTS:** N/A

**OPTIONS:** Discussion only

**RECOMMENDED ACTION:** N/A

**ATTACHMENTS:**