



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 Diane Adoma – District 5

CITY COUNCIL MEETING AGENDA

April 22, 2019

7:00 p.m.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** Megan Reid, City Clerk
- III. INVOCATION**
- IV. PLEDGE OF ALLEGIANCE**
- V. APPROVAL OF THE COUNCIL AGENDA**
- VI. MINUTES:**
Approval of the April 8, 2019 City Council Meeting Minutes
- VII. PRESENTATIONS:**
 1. Introduction of new staff
 - a. Megan Reid, City Clerk
 - b. Shakera Hall, Procurement Specialist
- VIII. PUBLIC COMMENTS**
- IX. APPOINTMENTS:**
 1. Housing Authority Members

X. OLD BUSINESS:

1. Review Minor Changes to 2038 City of Stonecrest Comprehensive Plan – The Collaborative Firm
2. Approve 2019 LMIG Resurfacing Project Contract with Blount Construction – Plez A. Joyner
3. Approve & Award CEI Services Contract for 2019 LMIG Resurfacing Project to Southeastern Engineering – Plez A. Joyner
4. Second Reading – Ordinance to create Chapter 5 (Animals)
5. Second Reading – Ordinance to create Chapter 17 (Motor Vehicles)
6. Second Reading – Ordinance to create Chapter 23 (Streets & Sidewalks)

XI. NEW BUSINESS:

1. 2019 Community Development Block Grant (CDBG) Application – Julian Jackson
2. Parks and Recreation IGA – Plez A. Joyner
3. Recommendation to contract with selected vendor for Youth Services (Summer Camp at Browns Mill Recreation Center) – Sean De Palma
4. First Reading – Chapter 20 (Personnel)
5. First Reading – Chapter 26 (Wreckers)

XII. PUBLIC HEARINGS:

1. RZ-19-001 Residential Rezoning (4001-3989 Panola Road)
2. RZ-19-002 Residential Rezoning (3606 Dogwood Pass/8078 White Oak)
3. RZ-19-004 Residential Rezoning Request (Creekwood Conservation Subdivision)
4. SLUP 19-001 Personal Care Home (3317 Panola Road)

XIII. EXECUTIVE SESSION:

WHEN AN EXECUTIVE SESSION IS REQUIRED, ONE WILL BE CALLED FOR THE FOLLOWING ISSUES: 1) PERSONNEL, 2) LITIGATION, 3) REAL ESTATE

XIV. CITY MANAGER COMMENTS

XV. CITY ATTORNEY COMMENTS

XVI. MAYOR AND COUNCIL COMMENTS

XVII. ADJOURNMENT



CITY COUNCIL AGENDA ITEM

SUBJECT: 2038 City of Stonecrest Comprehensive Plan

- ORDINANCE** **POLICY** **STATUS REPORT**
 DISCUSSION ONLY **RESOLUTION** **OTHER**

Date Submitted: 04/15/19

Council Meeting: 04/22/2019

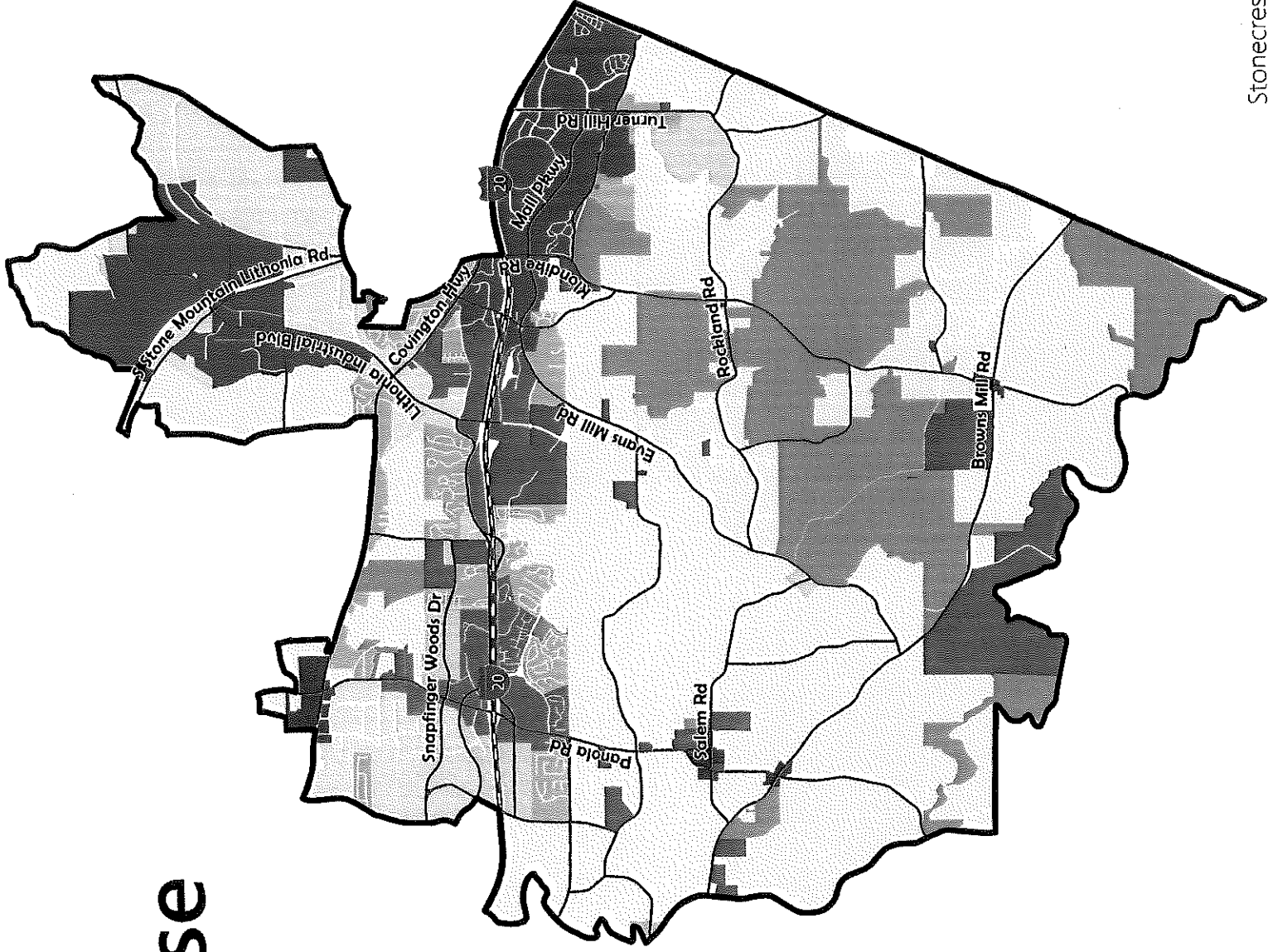
SUBMITTED BY: Mary Darby, The Collaborative Firm

PURPOSE: The Collaborative Firm will review the minor changes in the 2038 City of Stonecrest Comprehensive Plan with Mayor and City Council.

ATTACHMENT(S):

- #1 2038 Future Land Use Map
- #2 City of Stonecrest Comp Plan 2038, New Plan Adoption Schedule as of March 25, 2019

2038 Future Land Use Map



- Conservation/OpenSpace
- Rural Residential
- Urban Neighborhood
- Suburban
- Institutional
- Office Professional
- Neighborhood Center
- City Center
- Regional Center
- Light Industrial
- Heavy Industrial



**City of Stonecrest Comp Plan 2038
New Plan Adoption Schedule
as of March 25, 2019**

February 14, 2019 – Approved by DCA/ARC

March 25, 2019 – Presentation at the Mayor and City Council Work Session and Meeting

- Update on Remaining Project Schedule
- Request for Approval of Minor Changes to draft Stonecrest Comp Plan
- New Stonecrest Comp Plan Deadline Date June 28, 2019
- Request Approval to Continue Advancing Comp Plan through revised project schedule

April 9, 2019 – “Special Called” Presentation for Final Stonecrest Comp Plan 2038 at City of Stonecrest Planning Commission Meeting at 6 p.m.

- Update on Minor Changes made to the Final Stonecrest Comp Plan 2038
- Request approval to Advance Comp Plan to Mayor & City Council agenda for Comp Plan Update with minor changes

April 22, 2019 – Presentation on Final Stonecrest Comp Plan 2038 at Mayor & City Council Hearing

- Update on Final Draft Stonecrest Comp Plan 2038 minor changes
- Request approval to re-transmit updated Comp Plan to DCA/ARC for 2nd review and approval of minor changes

June 10, 2019 – Request Adoption of Final Draft Stonecrest Comp Plan 2038 at Mayor & City Council Agenda

- Note: Request for final adoption date is dependent upon re-review of Final Draft Comp Plan 2038 by DCA/ARC



**City of Stonecrest Comp Plan 2038
Minor Changes
as of March 25, 2019**

Minor Changes to Plan Include:

I. Vision Statement

Existing Draft Statement

“Community, commerce and Culture working together to be a world class city.”

Proposed Updated Statement

“Community, commerce and Culture working together as ~~to be~~ a world class city.”

II. Future Land Use Map Character Area Minor Change

Existing Draft Character Area

Institutional Character Area for property located at 7698 Covington Highway,
Parcel 16 137 08 006
Zoned C-1 (Commercial)

Proposed Amended Draft Character Area

City Center Character Area for property located at 7698 Covington Highway,
Parcel 16 137 08 006
Zoned C-1 (Commercial)

III. Additional Changes made to the document prior to the “Minor Change Request of the FLUM” include:

- A. Existing Coffee Road Right-of-Way shown as Public Right-of-Way between CSX RR and 1501 Coffee Road has been removed. All maps and figures that represented this road as public has been updated.
- B. Lithonia Industrial Boulevard has been identified as a truck route on Map T-07 and any other map that requires the identification of a truck route on Lithonia Industrial Boulevard.

IV. Continued.

- C. Deleted Light Industrial Development Policy Number 14 on page 173 which reads "Adaptable Reuse – Convert obsolete and empty industrial buildings into multi-family and/or live-work establishments."
- D. Deleted Heavy Industrial Development Policy Number 14 on page 178 which reads "Adaptable Reuse – Convert obsolete and empty industrial buildings into multi-family and/or live-work establishments."



COUNCIL MEETING AGENDA ITEM

SUBJECT: 2019 LMIG Blount Contract

- | | | |
|--|-------------------------------------|---|
| <input type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input checked="" type="checkbox"/> OTHER |
| | |) |

Council Meeting: 04/22/2019

SUBMITTED BY: Plez Joyner, Deputy City Manager

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:



**CONTRACT AGREEMENT
ITB #2019-005
2019 LMIG RESURFACING**

**STATE OF GEORGIA
DEKALB COUNTY**

This Agreement ("Agreement") is made by and between the **CITY OF STONECREST, GEORGIA** (hereinafter, the "City"), a municipal corporation of the State of Georgia and **Blount Construction Company, Inc.** (hereinafter "Contractor"), a corporation created and existing under the laws of the State of Georgia, located at 1730 Sands Place, Marietta, GA 30067.

WHEREAS, the City is charged with the responsibility for the establishment of contracts for the acquisition of goods, materials, supplies and equipment, and services by the various departments of the City of Stonecrest; and

WHEREAS, the City has caused **Invitation to Bid (ITB) Number 2019-005** to be issued soliciting proposals from qualified Contractors to furnish all items, labor services, materials and appurtenances called for by them in accordance with this proposal. Selected ("Contractor") is required to provide the services as called for in the specifications; and

WHEREAS, the Contractor submitted a response to the **ITB #2019-005**; and

WHEREAS, the Contractor's submittal was deemed by the City to be the lowest qualified bidder per the scope of services.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Contractor hereby agree as follows:

1.0 Scope of Work

The Contractor does agree with the City to furnish all equipment, tools, materials, skill, labor of every description, and all things necessary to carry out as delineated in "**Exhibit A**" (**Scope of Work**) and complete in a good, firm, substantial and workmanlike manner, the Work in strict conformity with the specifications which shall form an essential part of this agreement. In addition to the foregoing, and notwithstanding anything to the contrary stated herein, the following terms and conditions, amendments, and other documents are incorporated by reference and made a part of the terms and conditions of this Agreement as is fully set out herein:

- EXHIBIT A – SCOPE OF WORK**
- EXHIBIT B – COST PROPOSAL**
- EXHIBIT C – W-9**
- EXHIBIT D – CERTIFICATE OF INSURANCE**
- EXHIBIT E – IMMIGRATION & SECURITY FORM**
- EXHIBIT F – PERFORMANCE BOND**

2.0 Term of Agreement

The Contractor understands and expressly acknowledges that time is of the essence in connection with the Contractor's performance under this Agreement. The Parties acknowledge and agree that all work required to be performed under this Agreement shall be completed no later than April 31, 2019, after the Effective Date of this Agreement (hereinafter, the "Completion Date"). (For purposes of calculating said calendar period, any Saturday or Sunday falling within said period shall be included in such calculation. Any public and legal holiday recognized by the State of Georgia pursuant to O.C.G.A. § 1-4-7 that occurs within said period shall be excluded in such calculation.

3.0 Compensation

3.1. Pricing. In consideration of the services to be performed by the Contractor under the Agreement in connection with the Project, the Parties agree that the total amount due to the Contractor from the City as compensation for the full, satisfactory performance of said services shall not exceed TWO MILLION, FIFTY THOUSAND, SEVEN HUNDRED NINETEEN DOLLARS (\$2,050,719.10). The prices quoted and listed on the attached Cost Proposal, a copy of which is attached hereto as **Exhibit "B" (Cost Proposal)** and incorporated herein, shall be firm throughout the term of this Contract. Any amounts paid to the Contractor under this Agreement shall be due thirty (30) days after the date that the Contractor submits a written invoice for such payment. Invoices are to be emailed to khildebrandt@Stonecrestga.gov. A W-9 Request for Taxpayer Identification Number and Certification Form must be submitted "**Exhibit C" (W-9)**.

4.0 Liquidated Damages

4.1 In the event the Contractor fails to fully perform all work required under this Agreement by 11:59 p.m. on the Completion Date, the Contractor shall pay to the City liquidated damages in the amount of five hundred dollars (\$500.00) per day for each calendar day of delay in fully performing all said work beyond the Completion Date. For purposes of this provision, the Parties (a) agree that any injury to the City arising from the Contractor's failure to perform all said work by the Completion Date is difficult to accurately estimate; (b) intend for the monetary provision herein to function as "liquidated damages" and/or "compensation" to the City for such injury and not as a penalty to the Contractor; and (c) acknowledge that, despite the difficulty in estimating the City's actual damage from such delay, the amount state herein constitutes a reasonable pre-estimate of any such damage.

5.0 Contract Extension

5.1. Contract Extension. In the event that this Standard Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified goods and ancillary

services, the City may, with the written consent of Contractor, extend this Contract for such period as may be necessary to afford the City a continuous supply of the identified goods and ancillary services.

If not set forth in the ITB and/or Contractor's submittal, the City will determine the basic period of performance for the completion of any of Contractor's actions contemplated within the scope of this Agreement and notify Contractor of the same via written notice. If no specific period for the completion of Contractor's required actions pursuant to this Agreement is set out in writing, such time period shall be a reasonable period of time based upon the nature of the activity. If the completion of this Contract is delayed by actions of the City, then and in such event the time of completion of this Contract shall be extended for such additional time within which to complete the performance of the Contract as is required by such delay.

This Contract may be extended by mutual consent of both the City and the Contractor for reasons of additional time, additional services and/or additional areas of work.

6.0 Independent Contractor

6.1. The Contractor shall be an independent Contractor. The Contractor is not an employee, agent or representative of the City. The Contractor shall obtain and maintain, at the Contractor's expense, all permits, licenses or approvals that may be necessary for the performance of the services. The Contractor shall furnish copies of all such permits, licenses or approvals to the City Representative within ten (10) days after issuance.

6.2. Inasmuch as the City and the Contractor are independent of one another neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City without the express knowledge and prior written consent of the City.

7.0 Indemnification

7.1 To the extent permitted by law, the Contractor shall indemnify, hold harmless and defend the City, its public officials, officers, employees, and agents from and against any and all liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including reasonable attorney's fees) to the extent arising out of any act or omission of the Contractor, its agents, subcontractors or employees in the performance of this Contract except for such claims that arise from the City's sole negligence or willful misconduct.

8.0 Warranty

8.1 The standard of care applicable to Contractor's services will be the degree of skill and diligence normally employed by businesses performing the same or similar services at the time said services are performed. For a twelve (12) month calendar period after the date of completion of the work required under the Agreement, Contractor guarantees that the work shall be free from defects. Materials are warranted as specified by individual manufacturers and not by the Contractor. Contractor warrants that

any services it conducts will be adequate and sufficient to accomplish the purposes for which they were performed, and no review or approval thereof by the City shall be deemed to diminish this warranty in any way. All work will be performed in compliance with all applicable codes, regulations, and laws.

9.0 Performance

Performance will be evaluated on a monthly basis. If requirements are not met, City Procurement will notify the Contractor in writing stating deficiencies, substitutions, delivery schedule, and/or poor workmanship.

A written response from the Contractor detailing how correction(s) will be made is required to be delivered to the City. Contractor will have thirty (30) days to remedy the situation. If requirements are not remedied the City has the right to terminate this Agreement with no additional obligation to Contractor.

9.1 Final Completion, Acceptance, and Payment

- A. Final Completion shall be achieved when the work is fully and finally complete in accordance with the Contract Documents. The City shall notify Contractor once the date of final completion has been achieved in writing.
- B. Final Acceptance is the formal action of City acknowledging Final Completion. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the City's right under any warranty or guarantee. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents submit to City a Notice of any outstanding disputes or claims between Contractor and any of its Subcontractors, including the amounts and other details thereof. Neither Final Acceptance, final payment shall release Contractor or its sureties from any obligations of these Contract Documents or the bond, or constitute a waiver of any claims by City arising Contractor's failure to perform the work in accordance with the Contract Documents.
- C. Acceptance of final payment by Contractor, or any Subcontractor, shall constitute a waiver and release to City of all claims by Contractor, or any such Subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of City relating to or arising out of the work, except for those Claims made in accordance with the procedures, including the time limits, set forth in section 8.

10.0 Changes

City, within the general scope of the Agreement, may, by written notice to Contractor, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

11.0 Change Order Defined

Change order shall mean a written order to the Contractor executed by the City issued after the execution of this Agreement, authorizing and directing a change in services. The Price and Time may be changed only by a Change Order.

12.0 Insurance

12.1 The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$2,000,000 per person and \$2,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage.

12.2 Contractor shall provide certificates of insurance evidencing the coverage requested herein before the execution of this agreement, and at any time during the term of this Agreement, upon the request of the City, Contractor shall provide proof sufficient to the satisfaction of the City that such insurance continues in force and effect. **"Exhibit D" (Certificate of Insurance)**.

13.0 Termination

13.1. Immediate Termination. This Agreement will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the City cannot fulfill its obligations under the Contract, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:

- (i) In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- (ii) The City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;
- (iii) The Contractor fails to comply with confidentiality laws or provisions; and/or
- (iv) The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

13.2. Termination for Cause. The occurrence of any one or more of the following events shall constitute cause or the City to declare the Contractor in default of its obligations under the Contract:

- (i) The Contractor fails to deliver or has delivered nonconforming goods or services or fails to perform to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;

(ii) The City determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;

(iii) The Contractor fails to make substantial and timely progress toward performance of the contract;

(iv) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

(v) The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;

(vi) The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion; or

(vii) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the State, the City, or a third party.

13.3. Notice of Default. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the City may:

(i) Immediately terminate the Contract without additional written notice; and/or

(ii) Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,

(iii) Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

13.4. Termination for Convenience. The City may terminate this Agreement for convenience at any time upon thirty (30) day written notice to the Contractor. In the event of a termination for convenience, Contractor shall take immediate steps to terminate work as quickly and effectively as possible and shall terminate all commitments to third-parties unless otherwise instructed by the City. Provided that no damages are due to the City for Contractor's failure to perform in accordance with this Agreement, the City shall pay Contractor for work performed to date in accordance with Section 1.0 herein. The City shall have no further liability to Contractor for such termination.

13.5. Payment Limitation in the event of Termination. In the event of termination of the Contract for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Contractor goods and services actually rendered up to and including the date of termination of the Contract and for which the City is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the City under the Contract in the event of termination. The City shall not be liable for any costs incurred by the Contractor in its performance of the Contract,

including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.

13.6. The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of the City, the Contractor shall:

- (i) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the City may require;
- (ii) Immediately cease using and return to the City, any personal property or materials, whether tangible or intangible, provided by the City to the Contractor;
- (iii) Comply with the City's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
- (iv) Cooperate in good faith with the City, its employees, agents and Contractors during the transition period between the notification of termination and the substitution of any replacement Contractor; and
- (v) Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Contractor.

14.0 Claims and Dispute Resolution

14.1 Claims Procedure

- A. If the parties fail to reach an agreement regarding any dispute arising from the Contract Documents, including a failure to reach agreement on the terms of any Change Order for City-directed work as provided in section 10.0, or on the resolution of any request for an equitable adjustment in the Contract Sum or the Contract Time, Contractor's only remedy shall be to file a Claim with City as provided in this section.
- B. Contractor shall file its Claim within the earlier of: 120 Days from City's final acceptance in accordance with section 10.0; or the date of Final Acceptance,
- C. The Claim shall be deemed to cover all changes in cost and time (including direct, indirect impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. The Claim shall contain a detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of work affected by the Claim.
- D. If an adjustment in the Contract Time is sought: the specific Days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time.

E. If any adjustment in the Contract Sum is sought: the exact amount sought and a breakdown of that amount into the categories; and a statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes City is liable.

F. After Contractor has submitted a fully-documented Claim that with all applicable provisions of section 10.0, City shall respond, in writing, to Contractor with a decision within sixty (60) Days from the date the Claim is received, or with notice to Contractor of the date by which it will render its decision.

14.2 Dispute Resolution

Pending resolution of any dispute hereunder, the Contractor shall proceed diligently with the performance of work in accordance with the City's direction.

15.0 Confidential Information

15.1. Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the City to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the City. If it is reasonably likely the Contractor will have access to the City's confidential information, then:

- (i) The Contractor shall provide to the City a written description of the Contractor's policies and procedures to safeguard confidential information;
- (ii) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
- (iii) The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
- (iv) The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract. The private or confidential data shall remain the property of the City at all times. Some services performed for the City may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

15.2. No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the City, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the City. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the City.

15.3. Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the City and cooperate with the City in any lawful effort to protect the confidential information.

15.4. Reporting of Unauthorized Disclosure. The Contractor shall immediately report to the City any unauthorized disclosure of confidential information.

15.5. Survives Termination. The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

16.0 Inclusion of Documents

Contractor's response submitted in response thereto, including any best and final offer, are incorporated in this Agreement by reference and form an integral part of this agreement. In the event of a conflict in language between this Agreement and the foregoing documents incorporated herein, the provisions and requirements set forth in this Agreement shall govern. In the event of a conflict between the language of the ITB, as amended, and the Contractor's submittal, the language in the former shall govern.

16.1 Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

17.0 Assignment

The Parties bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Agreement. The contractor shall not assign this Agreement without written consent of the Owner.

18.0 Amendments in Writing

No amendments to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties.

19.0 Surety Bonds

The Contractor shall furnish separate performance and payment bonds to the City. Each bond shall set forth a penal sum in an amount not less than the total compensation. Each bond furnished by the Contractor shall incorporate by reference the terms of this Agreement as fully as though they were set forth verbatim in such bonds. In the event the total compensation is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall automatically be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the City and the City's legal counsel and shall be executed by a surety, or sureties, reasonably suitable to the City.

20.0 Additional Terms

Neither the City nor any Department shall be bound by any terms and conditions included in any Contractor packaging, invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

21.0 Antitrust Actions

For good cause and as consideration for executing this Contract or placing this order, Contractor acting herein by and through its duly authorized agent hereby conveys, sells, assigns, and transfers to the City all rights, title, and interest to and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the City of Stonecrest pursuant hereto.

22.0 Reporting Requirement

Reports shall be submitted to the Project Manager on a quarterly basis providing, as a minimum, data regarding the number of items purchased, as well as the total dollar volume of purchases made from this contract.

23.0 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Georgia. The Superior Court of DeKalb County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract.

24.0 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein; all prior agreements, representations, statements, negotiations, and undertakings are suspended hereby. Neither party has relied on any representation, promise, or inducement not contained herein.

25.0 Severability

If any provision of this Agreement shall be deemed invalid or unenforceable by a court of competent jurisdiction, such provision shall be modified to the extent necessary to cure such invalidity or unenforceability; provided, however, if such modification is not possible without creating a material conflict with another provision of this Agreement, such invalid or unenforceable provision shall be deemed stricken from this Agreement.

26.0 Notices

All notices required or permitted to be given hereunder shall be deemed to be properly given if delivered in writing personally or sent by United States certified or registered mail addressed to the Contractor or the City, as the case may be, with postage thereon fully prepaid. The effective time of notice shall be at the time of mailing.

If to the City:

Stonecrest City Hall
Attn: K. Hildebrandt
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038

With copies to:

Fincher Denmark, LLC
Attn: Winston A. Denmark, Esq.
8024 Fair Oaks Court
Jonesboro, Georgia 30236

If to the Contractor:

Blount Construction Company, Inc.
Attn: _____
1730 Sands Place
Marietta, Georgia 30067

27.0 Time is of the essence

Time is of the essence for this Contract, the Contract Documents, and all supporting documents.

28.0 Participation in Federal Work Authorization Program

The Contractor shall participate in the federal work authorization program throughout the Agreement period, as provided in OCGA 13-10-91. The Contractor shall be required to, at the time of the contract, provide a signed, notarized affidavit, attesting that it has registered with, is authorized to use, and uses the federal work authorization program; it will continue to use the federal work authorization program throughout the agreement period; and it will contract for the physical performance of services in satisfaction of such agreement only with subcontractors who present an affidavit containing the above information. Further, to the extent that a subcontractor is utilized, the Subcontractor's federal work authorization program user identification number and the date of authorization shall be included in the affidavit.

[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF STONECREST:

CONTRACTOR:

By: _____

By: _____

Title: CITY MANAGER

Title: _____

Name: _____

Name: _____

Date: _____

Date _____

Attest: _____
City Clerk (Seal)



COUNCIL MEETING AGENDA ITEM

SUBJECT: Approve & Award CEI Services Contract for 2019 LMIG Resurfacing Project to Southeastern Engineering

- | | | |
|--|-------------------------------------|---|
| <input type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input checked="" type="checkbox"/> OTHER |

Council Meeting: 04/22/2019

SUBMITTED BY: Plez A. Joyner, Deputy City Manager

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

**PROFESSIONAL ENGINEERING AND DESIGN
SERVICES AGREEMENT**

This Professional Engineering and Design Services Agreement (the "Agreement") is made and entered by and between the **CITY OF STONECREST, GEORGIA** (the "City"), a municipal corporation duly organized by and existing under the laws of the State of Georgia, and **SOUTHEASTERN ENGINEERING, INCORPORATED** ("SEI"), a corporation existing under the laws of the State of Georgia. The City and SEI may be referred to herein individually as a "Party" or collectively as "Parties."

WITNESSETH:

WHEREAS, the City intends to resurface public streets within its municipal limits (the "Project") and desires to engage a qualified and experienced professional to provide certain engineering and design services concerning the Project;

WHEREAS, SEI has represented to the City that it is qualified and experienced to perform the professional engineering and design services described herein and has available the personnel and facilities necessary to accomplish said services within the time period(s) stated herein; and

WHEREAS, the City, in reliance upon said representations, desires to employ SEI to perform said engineering and design services on the terms and conditions set forth herein and, in turn, SEI desires to obtain such employment.

NOW, THEREFORE, in consideration of the mutual covenant, promises and obligations set forth below and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged and intending to be legally bound hereby, the Parties agree as follows:

1. **Description of Services:**

- (a) **Scope of Services.** SEI shall provide to the City the professional engineering and design services for the Project as described in the document entitled "Construction Engineering & Inspections 2019 LMIG Resurfacing Scope of Work" which is attached hereto as **Exhibit A.**
- (b) **Change of Scope of Services.** The Parties recognize that, during the course of the performance of the services identified in Paragraph 1(a), the scope of the Project may need to be reduced, expanded or otherwise modified. In such event, the City may, at any time during the term of the Agreement, make changes to the scope of the services identified in Paragraph 1(a). If any such change causes an increase or decrease in SEI's cost of performing any part of its obligations under the Agreement, upon SEI's request and the City's written authorization, an equitable adjustment shall be made to the contract price and a written amendment to the Agreement shall be made reflecting such change and equitable adjustment. Any claim by SEI for an equitable adjustment shall be made in writing and delivered to the City prior to SEI's performance with the additional or revised services. SEI shall not perform any such additional or revised services until it

receives from the City written authorization to the equitable adjustment. Nothing in this subparagraph shall excuse SEI from proceeding with the performance of its obligations under the Agreement in accordance with the original terms and conditions stated herein.

2. **Term, Commencement and Termination:**

- (a) **Term of Agreement.** The Agreement shall commence on the Effective Date and terminate automatically upon the latter of the following events: (1) the completion by SEI of all services identified in Paragraph 1; or (2) the issuance by the City of the final payment owed to SEI for all services identified in Paragraph 1. Notwithstanding this language or any other provision to the contrary in the Agreement, the term of the Agreement shall not exceed one (1) year from the Effective Date.
- (b) **Commencement.** SEI shall commence the performance of the services provided in Paragraph 1 within ten (10) calendar days after the Effective Date.
- (c) **Termination for Default.**
- (1) The City may, subject to the provisions of subparagraph (3) below, by written notice of default to SEI, terminate the whole or any part of this Agreement in any one of the following circumstances: (i) if SEI fails to perform this Agreement within the time specified herein or any extension thereof; or (ii) if SEI fails to perform any of the other provisions of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and does not cure such failure within a period of ten (10) days after receipt of notice from the City specifying such failure.
 - (2) In the event the City terminates this Agreement in whole or in part as provided in subparagraph (a) above, the City may procure, upon such terms and in such manner as the City may deem appropriate, services similar to those so terminated, and SEI shall be liable to the City for any excess costs for the same; provided, that SEI shall continue the performance of this Agreement to the extent not terminated hereunder.
 - (3) Except with respect to defaults of subcontractors, SEI shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of SEI. Such causes may include, but are not limited to, acts of God, or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of SEI. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both SEI and the subcontractor, and without the fault or negligence of either of them, SEI shall not be liable for any excess costs for failure to perform, unless the services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit SEI to meet the required delivery schedule. For purposes of this subparagraph, the term "subcontractor" shall mean a subcontractor at any tier.
 - (4) If, after notice of termination of this Agreement under the provisions of this paragraph, it is determined for any reason that SEI was not in default under the provisions above, or that the default was excusable under the provisions of this paragraph, the rights and obligations of the parties shall be the same as if the notice of

- termination had been issued pursuant to the "Termination for Convenience" paragraph of this Agreement.
- (5) The rights and remedies of the City provided in subparagraph (c) ("Termination for Default") shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- (d) **Termination for Convenience.** Notwithstanding Paragraph 2(a) or any other provision to the contrary herein, the City shall have the unilateral right to terminate the Agreement at any point during any term of the Agreement, solely at its discretion and without cause, by providing thirty (30) days written notice to SEI of its desire to terminate. If the Agreement is terminated (in whole or in part) by the City pursuant to this subparagraph, SEI shall be paid an amount, to be mutually agreed upon, which shall be adequate to cover the actual reasonable cost paid by SEI for the actual labor reasonably used by SEI to perform the work under this Agreement to the effective date of termination, plus a reasonable profit thereon; provided that no amount shall be paid to SEI for: (i) any anticipatory profits related to work under this Agreement not yet performed, or (ii) costs incurred due to SEI's failure to terminate work as ordered on the effective date of termination. In no event shall the total amount paid under this subparagraph exceed the rates and/or prices otherwise set forth in this Agreement.
3. **Compensation:** The City shall compensate SEI for all services provided under Paragraph 1 at the rates and/or prices set forth in Exhibit A. Invoices to the City shall not be submitted until the schedule of completion and completion of narrative reports are updated and submitted to the City. The City shall remit to SEI payment for the amount identified in an invoice on or before thirty (30) days after the date of the invoice.
4. **Assignment and Subcontracting:** Notwithstanding any other provision to the contrary herein, SEI shall not assign the Agreement (or any portion thereof) nor shall SEI subcontract for completed or substantially completed services provided under Paragraph 1 without the prior express written consent of the City. No assignment or subcontract by SEI, including any assignment or subcontract to which the City consents, shall in any way relieve SEI from complete and punctual performance of its obligations under the Agreement.
5. **The City's Assistance and Cooperation:** During SEI's performance of the services provided under Paragraph 1, the City may (but has no obligation to) provide assistance to, or cooperate with, SEI in any activity or activities that facilitate the proper performance and completion by SEI of the services provided under Paragraph 1. Such assistance and cooperation by the City may include without limitation: (i) providing engineering or other analysis or advice on correcting problems; (ii) refraining from strict enforcement of time schedule requirements under the Agreement; and (iii) permitting use of test materials or documentation not performed or produced under the Agreement. Such assistance or cooperation by the City shall not be construed, and SEI agrees that it will not claim that any such assistance or cooperation operates, to relieve SEI from complete, proper and punctual performance of all of SEI's obligations to the City arising under the Agreement.
6. **Responsibility of SEI:** SEI acknowledges that the City is employing it to professionally render the services provided under Paragraph 1 only and that any payment(s) made to it by

the City under the Agreement are compensation solely for such services. SEI agrees to follow the applicable standard of professional care in performing the services provided under Paragraph 1. SEI agrees to perform the services provided under Paragraph 1 in accordance with generally accepted standards and practices customarily utilized by competent engineering firms in effect at the time such services are rendered. No review of SEI's professional work product provided pursuant to the Agreement, including (but not limited to) any plans and specifications, by any employee or agent of the City shall relieve SEI of any responsibility with respect to such professional work product.

7. **Work on the City's Designated Premises:** In the event that SEI, any employee or agent of SEI, or any subcontractor of SEI enters the City's designated premises for any reason in connection with this Agreement, SEI and such other parties shall observe all applicable security requirements and all applicable plant safety, plant protection, and traffic regulations. SEI shall defend, indemnify, and hold the City harmless from all claims, actions, demands, loss, and causes of action, arising from injury, including death, to any person, or damage to any property, when such injury or damage results in whole or in part from the acts or omissions of SEI, any employee or agent of SEI, or any subcontractor of SEI, save and except damage caused by the sole negligence of the City. SEI and any subcontractor retained or used by SEI in connection with this Agreement, shall carry Workers' Compensation and Employees' Liability Insurance to cover SEI's and such subcontractor's legal liability on account of accidents to their employees. SEI and any such subcontractor shall carry adequate Comprehensive General Liability and adequate Comprehensive Automobile Liability Insurance covering accidents to their employees. SEI and any such subcontractor shall carry adequate Comprehensive General Liability and adequate Comprehensive Automobile Liability Insurance covering legal liability of SEI and any subcontractor on account of accidents arising out of the operations of SEI or any subcontractor and resulting in bodily injury, including death, being sustained by any person or persons, or in any damage to property. At the City's request, SEI shall furnish to the City certificates from SEI's insurers showing such coverage in effect and agreeing to give the City ten (10) days' prior written notice of cancellation of the coverage.
8. **Risk Management Requirements:** SEI shall abide by the City's applicable Risk Management Requirements, which are attached hereto as **Exhibit B**.
9. **Indemnification:**
 - (a) To the fullest extent permitted by law, SEI shall indemnify and hold harmless the City (including its elected officials, officers, directors, employees and agents) from and against all claims, costs, losses and damages (including, but not limited to, all fees and charges of engineers, consultants, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to SEI's performance of the services provided under Paragraph 1, provided that any such claim, cost, loss or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than the work itself) but only to the extent caused by any negligent or intentional act or omission of SEI, any employee or agent of SEI, or any subcontractor of SEI.

- (b) In any and all claims against the City (including any and all claims against its elected officials, officers, directors, employees and agents) by any employee (or the survivor or personal representative of such employee) of SEI, any subcontractor of SEI or any individual or entity directly or indirectly employed by SEI or such subcontractor to perform any of the services provided under Paragraph 1, or anyone for whose acts any of them may be liable, the indemnification obligation under subparagraph (a) of Paragraph 9 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for SEI, any subcontractor of SEI or any individual or entity directly or indirectly employed by SEI or such subcontractor under workers' compensation acts, disability benefits acts or other employee benefits acts.
- (c) Regardless of any other term of this Agreement, in no event shall either Party be responsible to the other Party for any incidental, consequential or other indirect damages.

10. **Relationship of the Parties:**

- (a) **Independent Contractor.** Nothing contained in the Agreement shall be deemed to create any relationship other than that of independent contractor between the City and SEI. This Agreement shall not constitute, create, or otherwise imply an employment, joint venture, partnership, agency or similar arrangement between the City and SEI. It is expressly agreed that SEI is acting as an independent contractor of the City and not as an employee in performing the services provided under Paragraph 1 of the Agreement.
- (b) **Employee Benefits.** SEI shall not be eligible for any benefit available to employees of the City including, but not limited to, workers' compensation insurance, state disability insurance, unemployment insurance, group health and life insurance, vacation pay, sick pay, severance pay, bonus plans, pension plans, or savings plans.
- (c) **Payroll Taxes.** No income, social security, state disability or other federal or state payroll tax will be deducted from payments made by the City to SEI under this Agreement. SEI shall be responsible for all FICA, federal and state withholding taxes and workers' compensation coverage for any individuals assigned to perform the services provided under Paragraph 1.

11. **Conflicts of Interest:** SEI warrants and represents that:

- (a) Its performance of the services to be provided under Paragraph 1 will not create an actual or apparent conflict of interest with any other work it is currently performing; and
- (b) It is not presently subject to any agreement with a competitor or with any other party that will prevent it from performing in full accord with this Agreement; and
- (c) It is not subject to any statute, regulation, ordinance or rule that will limit its ability to perform its obligations under this Agreement. The Parties agree that SEI shall be free to accept other work during the term hereof; provided, however, that such other work shall not interfere with its performance of the services to be provided under Paragraph 1.

12. **Waiver of Breach:** The waiver by either Party of a breach or violation of any provision of the Agreement shall not operate or be construed to constitute a waiver of any subsequent breach or violation of the same or other provision thereof.

13. **User and Ownership of Documents:** Original documents (whether paper or electronic media), such as reports, plans, drawings, specifications, designs and survey notes developed

or prepared by SEI in connection with its performance of the services provided in Paragraph 1 belong to, and remain, the property of the City. SEI may retain copies of such documents for its records and for its professional endeavors.

14. **Attorney's Fees:** To the extent not otherwise addressed in Paragraph 9 or any other provision in the Agreement, SEI agrees to pay reasonable attorney's fees to the City should the City be required to incur attorney's fees in enforcing any provision of the Agreement.

15. **Disputes:** Pending resolution of any dispute hereunder, SEI shall proceed diligently with the performance of work in accordance with the City's direction.

16. **Notices:** All notices required or permitted to be given hereunder shall be deemed to be properly given if delivered in writing personally or sent by United States certified or registered mail addressed to SEI or the City, as the case may be, with postage thereon fully prepaid. The effective time of notice shall be at the time of mailing.

If to the City:

City Manager
Stonecrest City Hall
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038

With copies to:

Winston A. Denmark
Fincher Denmark LLC
8024 Fair Oaks Court
Jonesboro, Georgia 30326

If to SEI:

Southeastern Engineering, Inc.
2470 Sandy Plains Road
Marietta, Georgia 30066

17. **Integration:** The Agreement (including any and all exhibits hereto) represents the entire understanding and agreement between the City and SEI as to those matters contained herein. No prior oral or written understanding between the Parties shall be of any force or effect with respect to those matters contained herein. The Agreement may not be modified or altered except in a writing signed by both Parties.

18. **Captions:** All captions, headings, paragraph numbers and subparagraph numbers are solely for the purpose of facilitating references to the Agreement and shall not supplement, limit or otherwise vary the text of the Agreement in any respect.

19. **References:** All references in the Agreement to Paragraphs shall be deemed to refer to the appropriate Paragraph of the Agreement. Use of pronouns or adjectives of one gender shall include the other gender, use of the singular shall include the plural and use of the plural shall

include the singular, all as the context of the Agreement requires. Unless otherwise specified in the Agreement, the terms "herein," "hereof," "hereunder" and other terms of similar import, shall be deemed to refer to the Agreement as a whole, and not to any particular Paragraph hereof.

20. **Severability:** If any provision of the Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.
21. **Interpretation:** The Parties acknowledge that each of them (including legal counsel, to the extent each may have employed such counsel in the preparation of the Agreement) have participated fully in the review and the revision of the Agreement prior to its execution. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting any word, phrase, sentence, paragraph, subparagraph, or article in the Agreement. The language in the Agreement shall be interpreted as to its fair meaning and not strictly for or against any party hereto.
22. **Exhibits:** The exhibits referred to in and attached to the Agreement are incorporated herein in full by reference.
23. **No Third-Party Beneficiaries:** Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.
24. **Participation in Federal Work Authorization Program:** SEI shall participate in the federal work authorization program throughout all applicable time periods of the Agreement, as provided in O.C.G.A. § 13-10-91. Before or at the time of its execution of the Agreement, SEI shall complete and sign (including the signature of a notary public) the form (attached hereto as **Exhibit C**) attesting that it has registered with, is authorized to use, and uses the federal work authorization program; it will continue to use the federal work authorization program throughout all applicable time periods of the Agreement; and it will contract for the physical performance of services in satisfaction of the Agreement only with subcontractors who present an affidavit containing the above information. Further, to the extent that a subcontractor is utilized, the subcontractor's federal work authorization program user identification number and the date of authorization shall be included in the affidavit.
25. **Governing Law and Consent to Jurisdiction:** The Agreement is made and entered into in the State of Georgia and the Agreement and the rights and obligations of the Parties shall be governed by and construed according to the laws of the State of Georgia without giving effect to the principles of conflicts of laws. The jurisdiction for resolution of any dispute arising from this Agreement shall be in the Superior Court of DeKalb County, Georgia.
26. **Execution in Counterparts:** The Agreement may be executed in multiple counterpart copies. Each such counterpart copy shall be deemed an original for all purposes, and all of such counterpart copies shall together constitute one and the same agreement. This Agreement, however, shall not be binding until and unless each of the Parties has executed a

counterpart and delivered a copy of it to the other. The delivery of the executed copy of the Agreement by e-mail or other means of electronic communication will be deemed to be as effective as delivery of an original signature page.

27. **Effective Date:** The Effective Date of the Agreement shall be the date upon which the last Party signs the Agreement as such date is indicated in the signature of the representative of each Party signing the Agreement.

[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement on the date(s) and year written below.

**SOUTHEASTERN ENGINEERING,
INCORPORATED**

By: _____

Name: _____

Title: _____

Date: _____

CITY OF STONECREST, GEORGIA

By: _____

Name: Jason Lary, Mayor

Date: _____

Attest:

Leah Rodriguez, Interim City Clerk

Date: _____

EXHIBIT A

EXHIBIT B

RISK MANAGEMENT REQUIREMENTS

Southeastern Engineering, Incorporated (the "Contractor") will provide minimum insurance coverage and limits as per the following: The Contractor will file with the City Certificates of Insurance, certifying the required insurance coverage and stating that each policy has been endorsed to provide thirty (30) day notice to the City in the event that coverage is cancelled, non-renewed, or the types of coverage or limits of liability are reduced below those required. All bonds and insurance coverage must be placed with an insurance company approved by the City's Management, admitted to do business in the State of Georgia, and rated Secure ("B+" or better) by A.M. Best Company in the latest edition of Property and Casualty Ratings, or rated by Standard & Poors Insurance Ratings, latest edition as Secure ("BBB" or better). Worker's Compensation self-insurance for individual Contractors must be approved by the Worker's Compensation Board, State of Georgia and/or Self-Insurance pools approved by the Insurance Commissioner, State of Georgia.

CONTRACTS FOR UP TO \$50,000

Worker's Compensation – Worker's Compensation coverage on a statutory basis for the State of Georgia with an Employer's Liability limit of \$100,000 each Accident, Disease \$100,000 each employee, \$500,000 Disease policy limit.

Automobile Liability – Automobile liability coverage for owned, hired and non-owned vehicles in the amount of \$500,000 combined single limit.

Commercial General Liability – Coverage to be provided on "occurrence" not "claims made" basis. The coverage is to include Contractual liability, Per Project Limit of Liability, losses caused by Explosion, Collapse and Underground ("xcu") perils, the "City of Stonecrest, Georgia" is to be added as an Additional Insured and Products and Completed Operations coverage is to be maintained for three (3) years following completion of work.

CONTRACTS FOR MORE THAN \$50,000

Worker's Compensation – Worker's Compensation coverage on a statutory basis for the State of Georgia with an Employer's Liability limit of \$1,000,000. The increased Employer's Liability limit may be provided by an Umbrella or Excess Liability policy.

Automobile Liability - Automobile liability coverage for owned, hired and non-owned vehicles in the amount of \$1,000,000 combined single limit.

Commercial General Liability – Coverage to be provided on "occurrence" not "claims made" basis. The coverage is to include Contractual liability, Per Project Limit of Liability, losses caused by Explosion, Collapse and Underground ("xcu") perils, the "City of Stonecrest, Georgia" is to be added as an Additional Insured and Products and Completed Operations coverage is to be maintained for three (3) years following completion of work.

RISK MANAGEMENT REQUIREMENTS (Cont'd)

CONTRACTS FOR UP TO \$50,000

CONTRACTS FOR MORE THAN \$50,000

LIMITS OF LIABILITY:

\$1,000,000	Per Occurrence
\$1,000,000	Personal and Advertising
\$50,000	Fire Damage*
\$5,000	Medical Payments*
\$1,000,000	General Aggregate
\$1,000,000	Products/Completed Operations per Occurrence and Aggregate

**These are automatic minimums*

Owner's Protective Liability – The City's Management may, in its discretion, require Owner's Protective Liability in some situations.

Umbrella and/or Excess Liability – The umbrella or Excess Liability Policy may be used to combine with underlying policies to obtain the limits required. The Management of the City may elect to require higher limits.

Owner's Protective Liability – The City's Management may, in its discretion, require Owner's Protective Liability in some situations.

END OF SECTION

EXHIBIT C

[1229-0007/303957/2]

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Stonecrest, Georgia has registered with and is participating in a federal work authorization program - EEV/Basic Pilot Program operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA), in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of Stonecrest, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Stonecrest at the time the subcontractor(s) is retained to perform such service.

EEV/Basic Pilot Program* User Identification Number

Southeastern Engineering, Incorporated

By: Printed Name of Authorized Officer or Agent

Its: Title of Authorized Officer or Agent of Contractor

Date

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 20__

Notary Public
My Commission Expires:

City of Stonecrest 2019 LMIG Street Resurfacing: ITB # 2019-005

Southeastern Engineering, Inc. (SEI) is pleased to submit the enclosed bid in response to the City of Stonecrest's Invitation to Bid ITB #2019-005 2019 LMIG Street Resurfacing. We have carefully compiled a comprehensive response and are fully committed to providing the professional services presented herein.

About SEI: Basic Company Information

All company officers, directors, and associates are located at the company's corporate address at 2470 Sandy Plains Road, Marietta, GA 30066. The company's main phone line is 770.321.3936. Scott Jordan, SEI's Transportation Director, will be the Project Manager for this effort and will be the main point of contact for the City of Stonecrest. Mike Lehner, Construction Project Manager, will provide daily project oversight and coordination with city staff, utility and contractor representatives, address citizen concerns, and report progress directly to the City Public Works Director.

SEI is a privately-held engineering company providing an extensive range of services including traffic transportation, construction inspection and management, environmental and civil engineering, land surveying, drone aerial photography, landscape architecture, and 3D scanning to both private and public sector clients, including numerous municipal and county governments and state agencies. Our transportation and public infrastructure group within the firm consists of highly-trained, experienced, and responsive professionals. Additionally, SEI is a 100-employee, Woman-owned Business Enterprise (WBE) and certified Disadvantaged Business Enterprise (DBE) by the Georgia Department of Transportation (GDOT) Equal Opportunity Division and a Female Business Enterprise (FBE) by the City of Atlanta.

SEI maintains a knowledgeable and dedicated CE&I staff with extensive experience working for local governments and recent ongoing experience with many other districts and agencies. We understand the concerns local jurisdictions face; we excel at providing safe and timely solutions, which balance cost effectiveness with the needs of the community. Our team has a vast knowledge of GDOT's plan development process (PDP), plan presentation guidelines (PPG) and is familiar with GDOT construction requirements.



Past Experience

CITY OF UNION CITY PEDESTRIAN SYSTEM IMPROVEMENTS – PHASES II AND III

Union City, Fulton County, Georgia (PI Nos. 0009060 and 0010729)

SEI is currently providing construction engineering and inspection services for Phases II and III. Services include construction and contract administration including preparation of bid documents, schedules, and final plans for submission to the GDOT TE Program for approval. SEI is also responsible for the coordination of materials testing, construction documentation, bi-monthly project status meetings with the contractor and Public Works Director, bi-weekly site visits, review of submittals, assistance with any construction issues that may arise, and handling of the final punchlist and project closeout for the City of Union City, GDOT, and the TE Program. GDOT's plan presentation guide and local administration project guidelines were followed heavily as there is federal funding involved in this project as well as this being part of the TE Program.

I-285 at 400 CONSTRUCTION ENGINEERING & INSPECTION

Atlanta, Fulton County, Georgia

SEI is a subconsultant to Jacobs Engineering on this 3-year contract providing Construction Engineering and Inspection (CEI) services which include ensuring conformance to design plans and compliance accepted construction standards. Our Senior Inspector processes pay applications to verify quantities, maintain records, coordinate utility relocations and provide direction to the contractor for quality control and review processes for all documentation and pay applications on numerous projects.

PROFESSIONAL ENGINEERING SERVICES ON-CALL FOR CONSTRUCTION ENGINEERING & INSPECTION

City of Johns Creek, Fulton County, Georgia

SEI is to perform as an extension of the City of Johns Creek staff in managing road construction projects to ensure conformance to design plans and compliance accepted construction standards. Process pay applications to verify quantities, maintain records, coordinate utility relocations and provide direction to the contractor. Current Project at this time include:

- Brumbelow Road Trail
- Parsons Road Sidewalks
- Rogers Circle Sidewalks

CONSTRUCTION ENGINEERING & INSPECTION SERVICES FOR DISTRICT 7

Various Counties, Georgia

SEI is a subconsultant to Jacobs Engineering on this 5-year contract handling Construction Engineering and Inspection Services on both State and Federal projects to ensure conformance to design plans and compliance accepted construction standards. Our Senior Inspectors and Bridge Inspector process pay applications to verify quantities, maintain records, coordinate utility relocations and provide direction to the contractor for quality control and review processes for all documentation and pay applications on numerous projects.



**GDOT FISCAL YEAR 2016 DESIGN BUILD BRIDGES CONSTRUCTION
ENGINEERING & INSPECTION SERVICES**

Crawford County, Georgia

Subconsultant to Arcadis, SEI was responsible for the inspection of the demolition and reconstruction of an existing bridge located on Avera Road in Crawford County, Georgia. Work included driving steel case piles and recording data on minimum tip and freeze point information, recording, and logging information as well as preparing specimens ready for testing, oversight of all structural concrete pours and rebar installation, bridge beams installation, bridge deck pours, and all roadway work including milling of the existing road, subgrade preparation, GAB installation, laying asphalt, and signage as well as coordinating the appropriate testing of final product.

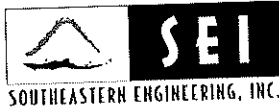


City of Stonecrest 2019 LMIG Street Resurfacing: ITB # 2019-005

SEI is extremely proud of our professional experience. We have a well-documented history of providing exceptional professional services on time and within budget. SEI has project experience with many local jurisdictions and agencies across the Metro area. We believe the best people to evaluate SEI's work are our clients. Please find below a list of three client references:

<p>North Marietta Parkway Intersection Improvements PI No. 012607 (Owner: City of Marietta/GDOT) The addition of additional left turning lanes and a new right turning lane on North Marietta Parkway including pedestrian facilities within the project limits and the relocation of the bus stop as well as full time CE&I services and contract administration. (08/2018 – Present)</p>	<p>Joe Vitale Transportation Project Engineer 770.794.5709 268 Lawrence Street Marietta, GA 30060</p>
<p>Professional Engineering Services On-Call – CE&I Services (Owner: City of Johns Creek) SEI is to perform as an extension of the City of Johns Creek staff in managing road construction projects to ensure conformance to design plans and compliance accepted construction standards. Process pay applications to verify quantities, maintain records, coordinate utility relocations and provide direction to the contractor. (06/2017 – 09/2018)</p>	<p>Alton Matthews Construction Operations Manager 678.512.3200 12000 Findley Road, Suite 400 Johns Creek, GA 30097</p>
<p>Construction Engineering & Inspection (CEI) Services for District 7 (Owner: GDOT) Subconsultant of Jacobs Engineering, SEI is handling Construction Engineering and Inspection Services ensuring conformance to design plans and compliance accepted construction standards. Process pay applications to verify quantities, maintain records, coordinate utility relocations and provide direction to the contractor. for quality control and review processes for all documentation and pay applications. (08/2017 – Present)</p>	<p>Lee Upkins CEI Program Manager Jacobs 404.978.7552 10 Tenth Street Atlanta, GA 30309</p>





Michael (Mike) T. Lehner

Construction Project Manager

Professional Background

Mike has over 35 years of experience in the project management and operations field. Prior to joining SEI, he worked as a Senior Project Manager at the Cobb County Department of Transportation where he provided construction oversight on resurfacing projects. As Senior Project Manager, Mike managed more than \$250 M of projects over the course of five SPLOST programs and oversaw a team of six construction inspectors. His tasks included oversight of major contracts and budgets, auditing and reporting functions, leading the competitive bid process, awarding projects, negotiating terms and conditions, enforcing contract compliance, development of project budgets, administering multiple budgets in conjunction with concurrent contract projects, dealing with executive-level leadership, and maintaining effective working relationships with employees, division and department heads, public/private sector contacts, and County administration.

Professional Experience

(May 2016 – Present) Southeastern Engineering, Inc., Atlanta, GA. **CE&I Project Manager**

- *Construction Project Manager.* (May 2016 – June 2018)
City of Atlanta - Renew Atlanta Bond and TSPLOST programs

(1983 – 2015) Cobb County Department of Transportation Construction Division, Marietta, GA. **Senior Project Manager**

- *Senior Project Manager – Various SPLOST programs*

Project Experience

Downtown East Point Streetscape Project – Phase II (PI# 0006576), East Point, Fulton County, GA. *CE&I Project Manager.* Mike has been responsible for the constructability review of all plans and revisions, working closely with Construction 57, the Contractor on the project, GDOT and Geneasa Elias from City of East Point. He is assisting with responding to comments and mark-ups per of plans, handling all documentation, verifying all payment applications, performing interviews per CUF rules and regulations and ensuring the contractor is complying with all codes and local ordinances set forth per GDOT and the City of East Point.

Union City Pedestrian System Phase II and Phase III (PI# 0009060/0010729), Union City, Fulton County, GA. *CE&I Project Manager.* Providing construction oversight for quality control of all aspects of construction and inspection of the project. Working with both the City of Union City and the City of Fairburn on the constructability and review of plans. Responsible for the assessment of sidewalk, curb and gutter along with all other construction to ensure conformance with the ordinances, contract documents as well as GDOT standards. Performed interviews per CUF rules and regulations. Handling documentation, coordinating material testing, inspection of the wall construction, including geotechnical and structural foundation. Working diligently with City Staff, Contractors and GDOT personnel.

SR 3/US 41 and SR 120 ALT Road Improvements, (PI# 0012607), City of Marietta, Cobb County, GA. *CE&I Project Manager.* Mike will be responsible for the constructability review of all plans and revisions,

Project Role:

Construction Project Manager

Certifications:

Supervisory Development Courses
Various Cobb County and GDOT workshops and continued training courses (1983-2015)
GDOT Plan Development Process (PDP)
GDOT Local Administered Project (LAP)
GDOT WECS Certified #643756
GSWCC Level 1B Inspector Certified #38327
OSHA 10-Hour Course Certified #17-000117794
City of Atlanta Project Management Training

Years with SEI:

3

Total Years of Experience:

36



Michael (Mike) T. Lehner Construction Project Manager

working with contractors, GDOT and the City of Marietta. Responding to comments and mark-ups per the Project Manager and the Client, handling all documentation, coordinating material testing, verifying all payment applications, performing interviews per CUF rules and regulations and ensuring the contractor is complying with all codes and local ordinances set forth per GDOT and the City of Marietta.

Parsons Road Sidewalk, City of Johns Creek, Johns Creek, Fulton County, GA. *CE&I Project Manager.* The City of Johns Creek contracted SEI to handle all the CE&I and contract administration. The project included concrete pours for sidewalk, driveway, curb, and gutter. It also included midblock crossing with R, storm line installation, erosion control checks, ensuring adequate traffic control, payment application review and verification, and the installation of Rectangular Rapid-Flashing Beacons (RRFB). Mike was responsible to ensure the sidewalk was up to standards and specifications by the contract document and plans.

Rogers Circle Sidewalk, City of Johns Creek, Johns Creek, Fulton County, GA. *CE&I Project Manager.* The City of Johns Creek contracted SEI to handle all the CE&I and contract administration. The Construction engineering and inspection included concrete pours for sidewalk, driveway & curb and gutter, storm line installation, spillway construction, erosion control checks, ensure adequate traffic control. Mike participated in the inspection and supervision on each of these tasks and the payment application review and verification.

Renew Atlanta Bond and TSPLOST programs. *Construction Manager.* Assists with development of the Resurfacing Program Component Budget. Confer with department management to support the development of long-range plans, monitor progress of construction by on-site inspections of project programs and coordinate the use of other City and Contract personnel. Provide recommendation in controlling costs, managing risks, and resolving claims, selecting contractors, negotiating terms and conditions, determining scope of services, budget management and control. Assist and review the preparation with contract language documents for use in bids and contracting for construction or maintenance work, and prepare oral and written presentations to City Administration as directed.

2016 SPLOST, Cobb County DOT. *Senior Project Manager.* Developed the resurfacing budget for the SPLOST.

2011 SPLOST, Cobb County DOT. *Senior Project Manager.* Managed the \$100,000,000 resurfacing budget and supervised the inspection team. Acted as lead contact to provide information to elected officials, county manager, department head, citizen inquiries, and sometimes the media. Coordinated paving schedules with any or all of the six municipalities in Cobb County. Created list of needs to apply for GDOT LMIG funding.

2005 SPLOST, Cobb County DOT. *Senior Project Manager.* Managed the \$80,000,000 resurfacing budget and supervised the inspection team. Acted as lead contact to provide information to elected officials, county manager, department head, citizen inquiries, and sometimes the media. Coordinated paving schedules with any or all of the six municipalities in Cobb County. Created list of needs to apply for GDOT LMIG funding.

1994, 1990, 1985 SPLOST, Cobb County DOT. *Project Manager.* Assisted with paving budgets and project oversight.



Andrew Reich
Construction Inspector

Professional Background

Andrew has two years of experience in Roadway Engineering at SEI. He has been a great asset to the company. Many of his tasks include preparation and review of utility and marking and signing plans. He responds to the comments and mark-ups per the Project Managers within the organization. He has recently performed field engineering and construction inspections on roadway projects. He is assisting with pay applications, monitoring quantities and maintaining a diary of daily activities.

Professional Experience

(May 2017 – Present) Southeastern Engineering, Inc., Marietta, GA.
Roadway Engineer I / Construction Engineer I

(Feb 2016 – May 2017) Southeastern Engineering, Inc. Marietta, GA.
Transportation (Intern)

Project Experience

PI No. 0009060, Union City Pedestrian System Phase II and PI No. 0010729, Union City Pedestrian System Phase III – Union City, Fulton County, GA. *CE&I Construction Inspector.* Union City contracted Southeastern Engineering, Inc., to handle all the CE&I and contract administration for the two phases of the Union City Pedestrian System. The project includes installation of new sidewalk, roadway and safety operational improvements, signing and pavement markings, new gateway signage into the City of Union City and the City of Fairburn, pedestrian improvements, new traffic signalization, and installation of new landscaping. Andrew will be assisting with erosion control compliance and oversight of the projects.

Eastmore Construction Phase I, Eastmore Development Company, Conyers, Rockdale County, GA. *CE&I Construction Inspector.* SEI was contracted for Construction Engineering & Inspection services. Andrew's responsibilities included overseeing the adherence to contract infrastructure standards and plans, overseeing the storm line installation, sanitary sewer installation, water line installation, concrete pours for sidewalk, driveway, and curb and gutter. In addition, He was responsible for payment application review and verification, along with supervising the pavement process.

On-Call Services (TO#05), Rogers Circle Sidewalk, City of Johns Creek, Fulton County, GA. *CE&I Construction Inspector.* SEI was contracted to handle all the CE&I and contract administration. The Construction engineering and inspection included concrete pours for sidewalk, driveway & curb and gutter, storm line installation, spillway construction, erosion control checks, ensure adequate traffic control. Andrew participated in the inspection and supervision on each of these tasks and the payment application review and verification.

On-Call Services (TO#03), Brumbelow Road Pedestrian Trail, City of Johns Creek, Fulton County, GA. *CE&I Inspector.* Handled the CE&I for this project. It included pedestrian bridge installation, pile driving, ensuring adequate traffic control, concrete pours for sidewalk, driveway, and curb & gutter. Andrew was also responsible for the inspection of the storm line installation, erosion control checks, payment application review & verification, and the installation of Rectangular Rapid-Flashing Beacons (RRFB).

Project Role:

Construction Inspector

Certifications:

GDOT WECS Certified #643773

GSWCC Level 1A Inspector Certified #80373

OSHA 10-Hour Course Certified #36-006146247

ACI Concrete Field Testing Technician Certified #01374030

Years with SEI:

2

Total Years of Experience:

2



Design Specifications and Guidelines: The engineering and design services will be performed in a lump sum approach as follows:

Total Lump Sum Fee **\$ 62,400** _____

General Scope of Service: The WORK under this project is to be commenced upon receipt of "Notice to Proceed" (NTP), anticipated on May 6, 2019. The WORK will be completed by August 31, 2019.

The CONSULTANT shall prepare a schedule showing milestone completion dates based on completing the WORK within the required timeframe (hereinafter referred to as the "Schedule for Completion"), excluding City review time. The Schedule for Completion will be revised to reflect the actual NTP date and will be updated as required throughout the project duration.

Every 30 days commencing with the execution of the project, the CONSULTANT shall submit a report which shall include, but not be limited to, a narrative describing actual work accomplished during the reporting period, a description of problem areas, current and anticipated delaying factors and their impact, explanations of corrective actions taken or planned, and any newly planned activities or changes in sequence (hereinafter referred to as "Narrative Report"). No invoice for payment shall be submitted and no payment whatsoever will be made to the CONSULTANT until the Schedule for Completion, and the completion of Narrative Reports are updated and submitted to the City. In no event shall payment be made more often than once every 30 days.

The CONSULTANT shall coordinate and attend periodic meetings with the CITY regarding the status of the TASK ORDER. The CONSULTANT shall submit transmittals of all correspondence, telephone conversations, and minutes of project meetings.

The CONSULTANT shall accomplish all of the pre-construction activities for the TASK ORDER as part of the WORK. The pre-construction activities shall be accomplished in accordance with the all local codes and ordinances (where applicable), the applicable guidelines of the American Association of State Highway and Transportation Officials, current edition, hereinafter referred to as "AASHTO", the GDOT's Standard Specifications Construction of Roads and Bridges, current edition, TASK ORDER schedules, and applicable guidelines of the Georgia Department of Transportation.

The CONSULTANT agrees that all reports, plans, drawings studies, specifications, estimates, maps, computations, computer diskettes and printouts and any other data prepared under the terms of this



COUNCIL MEETING AGENDA ITEM

SUBJECT: Animal Control Ordinance (Chapter 5)

- | | | |
|---|-------------------------------------|--|
| <input checked="" type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input type="checkbox"/> OTHER |

Council Meeting: 04/22/2019

SUBMITTED BY: Christa Freeman

PURPOSE: 2nd Reading

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING
CHAPTER 5 (ANIMAL CONTROL) OF THE CITY CODE.**

1
2
3
4 **WHEREAS**, the City of Stonecrest, Georgia Mayor and City Council are authorized by
5 the City Charter to provide for the general health, safety and welfare of the
6 citizens of the City; and

7
8 **WHEREAS** the Mayor and City Council find it to benefit the welfare of the citizens to
9 provide a process of animal control, delineation of registration
10 requirements and regulation of dangerous animals; and

11
12 **WHEREAS**, this Ordinance shall be adopted as part of the City of Stonecrest City
13 Code, as Chapter 5 (Animal Control).

14
15 **THEREFORE**, the Mayor and City Council of the City of Stonecrest, Georgia hereby
16 ordain as follows:

17 **Section 1:** The Mayor and City Council of the City of Stonecrest, Georgia,
18 hereby adopt an Ordinance designated as "Chapter 5. Animal Control" to read and
19 be codified as follows:
20

21 **CHAPTER 5. ANIMAL CONTROL.**

22
23 **Sec. 5-1. Definitions.**

24
25 For the purposes of this Chapter, certain terms and words are hereby
26 defined. Where words or terms are not herein defined, but are defined in
27 any other applicable sections of this Code or state law, now and as they
28 may be amended hereafter, those words shall have the meaning as
29 defined therein. As used in this Chapter, unless the context otherwise
30 indicates, the following words and terms shall have the meaning ascribed
31 to them:

32 *Abandonment* means the intentional or complete forsaking of any
33 animal by its owner, without making reasonable arrangements for the
34 adequate care and custody of the animal to be assumed by another person
35 or the failure to return and resume responsibility of an animal at the
36 designated time as arranged with the care giver. Abandonment also
37 means the act of placing an animal on public property or within a public
38 building, unattended or uncared for, or on or within the private property

39 of another without the express permission of the owner, custodian or
40 tenant of the private property. An animal shall also be considered
41 abandoned when it has been unattended and without adequate and proper
42 food and water for a period in excess of 36 hours, regardless of where
43 such animal may be found or kept.

44 *Adequate care* means exhibiting attention to the needs of an animal,
45 including but not limited to, the provision of food, water, shelter,
46 sanitary, safe and healthy conditions, and adequate and timely veterinary
47 medical attention necessary to maintain good health for the specific age,
48 size, species, and breed of animal or to prevent suffering.

49 *Adequate food* means sufficient quantity of non-contaminated and
50 nutritionally healthy sustenance that is appropriate to the species, breed,
51 size, age and health of the animal, or at the direction of a licensed
52 veterinarian; which is sufficient to prevent starvation, malnutrition, or
53 risk to the animal's health. Garbage, spoiled, rancid, or contaminated
54 food is not adequate food.

55 *Adequate shelter* means a protective covering for a domestic animal
56 that provides adequate space and protection to maintain the animal in a
57 state of good health, and that prevents pain, suffering, or significant risk
58 to the animal's health. Adequate shelter shall consist of a completely
59 enclosed structure with four sides, a constructed floor, and a roof with a
60 door opening. It should also be clean, dry and compatible with current
61 weather conditions, in addition to age, size, species and condition of the
62 animal. The structure should be of sufficient size to allow the animal to
63 stand, turn around, lie down and go in and out of the structure
64 comfortably. To be adequate, some type of bedding that is quick drying,
65 such as hay or pine straw, must be provided to maintain comfortable
66 temperatures within the structure during times when the ambient, outside
67 temperature is below 32 degrees Fahrenheit. In addition, the structure
68 shall include a heavy plastic or rubber flap to cover the door and/or

69 window openings during the months of December through March or
70 when the ambient, outside temperature is below 32 degrees Fahrenheit.
71 From April through November, the structure shall either be shaded or
72 moved out of direct sunlight. If the shelter is made of wood, it shall be
73 raised at least two inches off the ground to prevent seepage or rotting.
74 Examples of inadequate shelter include, but are not limited to, lean-tos,
75 metal or plastic drums, boxes, abandoned vehicles, porches, decks, or
76 material that does not provide sufficient protection from the elements.

77 *Adequate water* means clean, fresh, potable water sufficient to
78 prevent dehydration and properly sustain health presented in a clean
79 dish, free from contamination. Examples of inadequate water include,
80 but are not limited to, snow, ice and rancid/contaminated water.

81 *Animal* means every living vertebrate except a human being.

82 *Animal at large* means any animal moving without physical
83 restraint and not on its owner's property.

84 *Animal enforcement officer* means any person authorized by the
85 City Council or by law to enforce the provisions of this Chapter.

86 *Animal service center* means the facility designated by the City or
87 designated entity for the detention of animals.

88 *Classified animal* means any animal that has been classified as
89 either a dangerous or vicious animal pursuant to this Chapter or
90 comparably classified by the State of Georgia, or by any court, hearing
91 officer, or authorized government agency of any other state, county or
92 municipality.

93 *Classified animal pen* means a padlocked pen, as that term is
94 defined in this Chapter, made entirely of industrial gauge fencing with a
95 door or gate equipped with a working lock. The classified animal pen
96 must contain adequate shelter, as that term is defined in this Chapter, but
97 must also contain a minimum 100 square foot area outside the adequate
98 shelter.

99 *Community cat* means an unowned, free-roaming cat that has been
100 marked by surgical ear-tip pursuant to the community cat program.

101 *Community cat program* means a comprehensive process whereby
102 unowned free-roaming cats are captured humanely, transported to a
103 veterinarian for evaluation, spay/neuter surgery, rabies vaccination and
104 marking by surgical ear-tip, and returned to the area or location where
105 the cat was captured.

106 *Cruelty* means causing death or unjustifiable pain or suffering to
107 any animal by an act, omission, or neglect. Cruelty also includes
108 transporting an unrestrained animal in an open-air vehicle or in the trunk
109 of any vehicle, or leaving an animal unattended in a closed vehicle
110 without proper ventilation or temperature control where the outside air
111 temperature is 70 degrees Fahrenheit or above. Cruelty also means
112 allowing or causing any animal to train for or engage in an animal fight
113 operated for sport, entertainment or gaming purposes. Routine medical
114 procedures by a licensed veterinarian shall not be regarded as cruelty.

115 *Dangerous animal* means any animal that, according to the records
116 of an appropriate authority:

- 117 (1) Causes a substantial puncture of a person's skin by teeth without
118 causing serious injury, provided, however, that a nip, scratch, or
119 abrasion shall not be sufficient to classify an animal as
120 dangerous;
- 121 (2) Aggressively attacks in a manner that causes a person to
122 reasonably believe that the animal poses an imminent threat of
123 serious injury to such person or another person although no such
124 injury occurs; provided, however, that the acts of barking,
125 growling, or showing of teeth by an animal shall not be sufficient
126 to classify an animal as dangerous; or
- 127 (3) While off the owner's property, kills a pet animal; provided that
128 no animal shall be classified as dangerous when the death of such

129 pet animal is caused by a dog that is working or training as a
130 hunting dog, herding dog, or predator control dog.

131 *Electronic animal confinement system* shall mean a commercially
132 produced, functioning and professionally installed electronic fence which
133 utilizes an invisible electrically generated perimeter, in which the animal
134 within the perimeter wears an electronic collar that produces an electric
135 shock when the animal approaches or exceeds the perimeter.

136 *Euthanasia* means the legal act of putting an animal to death using
137 humane methods, recommended by the American Veterinary Medical
138 Association Panel on Euthanasia and approved by the Georgia
139 Department of Agriculture, as defined by Georgia law in the Georgia
140 Animal Protection Act, as may hereinafter be amended.

141 *Fence* means any structure of wire, wood, stone or other material,
142 which is of sufficient height and strength to act as a barrier against
143 passage of the animal it is intended to enclose. A fence must be
144 sufficient to prevent the animal from being able to jump, dig, or escape
145 from confinement.

146 *Garbage* means all refuse matter/effluent, either animal or vegetable
147 by-product from a restaurant, kitchen, or meat/poultry processing
148 establishment; spoiled/rancid food and refuse accumulation of animal,
149 fruit, or vegetable matter, liquid or otherwise, that is normally discarded.

150 *Guard dog* means a dog trained to attack persons or other animals
151 independently or upon oral command; or a dog that, while not so trained,
152 is reasonably expected to perform as a guardian of its owner and/or the
153 property upon which the dog is located.

154 *Hazardous animal* means an animal that may be harmful to humans
155 or other animals by virtue of its ability to produce poison or, due to its
156 size and feeding habits, could prey on humans as a food source.
157 Hazardous animals include, but are not limited to, pit vipers (genus
158 Crotalidae), coral snakes (genus Micrurus), poisonous spiders, frogs,

159 large reptiles, Nile monitors, caiman, alligators, crocodiles, and large
160 constricting snakes greater than ten feet in length.

161 *Identification* means any tag, tattoo, microchip, or other type of
162 marking that can be used to locate an animal's owner.

163 *Kennel* means any establishment, other than an animal shelter,
164 where animals are maintained for boarding, holding, training, or other
165 similar purposes for a fee or compensation.

166 *Law enforcement agency* means any division of the City of
167 Stonecrest Police Department or other governmental agency with law
168 enforcement powers operating within City of Stonecrest.

169 *Neglect* means endangering an animal's health by failing to provide
170 or arrange to provide the animal with food or drink if the animal is
171 dependent upon a person for the provision of food or drink, or the act of
172 restraining an animal in a manner that endangers the animal's life or
173 health. Other acts considered to be neglect include, but are not limited to:

- 174 (1) Failing to provide adequate care or seek veterinary care for an
175 injury or illness that seriously endangers the life or health of an
176 animal; or
177 (2) Leaving an animal outside and exposed to excessive heat or cold
178 without providing the animal with adequate shelter or protection
179 from the heat or cold, or exposing an animal to unsanitary
180 conditions.

181 *Official certificate of veterinarian inspection health certificate*
182 (*"OCVI health certificate"*) means a legible certificate issued by an
183 accredited veterinarian either on an official form of the State of Georgia
184 or an equivalent official form of the United States Department of
185 Agriculture.

186 *Open-air vehicle* means the cargo area of any pickup truck that is
187 not covered by a permanent attached utility cover or any convertible
188 vehicle with its top down.

189 *Owner* means any natural person or any legal entity, including but
190 not limited to a corporation, partnership, firm, or trust, owning,
191 possessing, harboring, keeping, or having custody or control of an
192 animal. In the case of an animal owned by a minor, the term "owner"
193 includes the parents or person in loco parentis with custody of the minor.
194 A cat may be deemed "unowned" if the cat is found on the property of a
195 natural person or legal entity disclaiming ownership of the cat and no
196 traceable form of identification is displayed on the cat.

197 *Pen* means a padlocked, fenced area within a perimeter fenced area
198 that has secure sides that are buried two feet into the ground or sunken in
199 concrete and a secure top.

200 *Police chief* means the police chief of the City of Stonecrest Police
201 Department or designee(s).

202 *Primary* means first or highest in rank; principal.

203 *Proper enclosure* means any structure or device used to restrict an
204 animal to a limited amount of space such as a fenced area, electronic
205 animal confinement system, building, house, pen, or other device or
206 structure out of which an animal cannot climb, dig, jump, or otherwise
207 escape.

208 *Qualified adoption facilitator, rescue group and animal*
209 *shelter* means an organization offering animals for adoption so long as
210 the organization is licensed as a shelter by the State of Georgia; or if not
211 incorporated in Georgia, is a non-profit organization under section
212 501(c)(3) of the Internal Revenue Code; and has the express
213 mission/business function of facilitating the sterilization and adoption of
214 homeless and unwanted animals. A copy of the state license or the
215 Internal Revenue Service letter of non-profit designation shall be
216 provided to the City upon request.

217 *Records of an appropriate authority* means records of any state,
218 county, or municipal law enforcement agency; records of any county or

219 municipal animal control agency; records of any county board of health;
220 or records of any federal or state court.

221 *Secondary* means of second rank; not primary.

222 *Serious injury* means any physical injury that creates a substantial
223 risk of death; results in death, broken or dislocated bones, lacerations
224 requiring multiple sutures, or disfiguring avulsions; requires plastic
225 surgery or admission to a hospital; or results in protracted impairment of
226 health, including transmission of an infection or contagious disease, or
227 impairment of the function of any bodily organ.

228 *Severe injury* means a physical injury that results in broken bones,
229 significant puncture wounds, disfiguring lacerations requiring multiple
230 sutures or cosmetic surgery or significant medical procedures or a
231 physical injury that results in death.

232 *Spay/neuter certificate* means documentation that certifies that the
233 animal listed therein has been sterilized as of the date of surgery.

234 *Sterilized animal* means an animal that has been surgically or
235 chemically altered by a licensed veterinarian in order to render the
236 animal incapable of reproduction.

237 *Stray animal* means any animal at large, whether lost by its owner
238 or otherwise, that may be in or on the common areas of apartments,
239 condominiums, trailer parks or other multi-residential premises, any
240 single-family residential property, or any other property or public area
241 without being controlled by a leash, that does not have an identification
242 tag or microchip, and otherwise has no identifiable owner. A community
243 cat shall not be classified as a stray animal, but a cat which has not
244 become a part of the community cat program is a stray animal.

245 *Tethered* means an animal attached to a stationary object by a chain,
246 cable or similar device commonly used for the size and type of animal
247 involved. An animal is not considered tethered when the animal is
248 attached to a stationary object, as long as the owner or custodian is

249 physically within reach of the animal. Any tethering device used to tether
250 an animal must be at least ten feet in length.

251 *Unsanitary conditions* means an animal living space, shelter, or
252 exercise area contaminated by health hazards, irritants, pollutants, items,
253 or conditions that endanger or pose a risk to an animal's health.

254 *Veterinary medical attention* means care or supervision by a
255 properly licensed practitioner of veterinary medicine as defined by
256 Georgia law, sufficient to maintain an animal in a state of good health
257 and prevent pain and suffering by an animal.

258 *Vicious animal* means one that inflicts serious injury on a person, or
259 one that causes serious injury to a person resulting from reasonable
260 attempts to escape the animal's attack.

261
262 **Sec. 5-2. General Responsibilities of Owners.**

- 263 (a) It shall be the duty of every owner of an animal to take all
264 necessary steps and precautions to protect other people, property,
265 and other animals from injury or damage resulting from such
266 animal's behavior, including, but not limited to, chasing, biting,
267 or otherwise jeopardizing the safety or welfare of the public,
268 regardless of whether such behavior is motivated by
269 mischievousness, playfulness, or ferocity.
- 270 (b) If the owner of an animal is a minor, the parent or guardian of
271 such minor shall be responsible to ensure full compliance with
272 the requirements of this Chapter.
- 273 (c) It shall be the duty of every owner of an animal to immediately
274 remove excrement deposited by the animal on any street or right-
275 of-way. The provisions of this subsection shall not apply to any
276 animal aiding the handicapped (e.g., guide dog) or to an animal
277 used for law enforcement related activities.

- 278 (d) Owners may not allow any domesticated or other animals within
279 their control to make any vocalizations in violation of the City
280 noise ordinance.

281 **Sec. 5-3. Keeping Animal Under Restraint While on Owner's**
282 **Property.**
283

- 284 (a) It shall be the duty of every owner of an animal to ensure that the
285 animal is kept under restraint, and that precautions are taken to
286 prevent the animal from leaving, while unattended, the real
287 property limits of its owner.
288 (b) It shall be the duty of every owner of an animal to ensure that the
289 animal is securely and humanely enclosed within a proper
290 enclosure as a means of primary restraint. Such enclosure must be
291 securely locked at any time the animal is left unattended. When
292 outside the proper enclosure but on the owner's property, it shall
293 be the duty of every owner of an animal to ensure that the animal
294 is humanely secured by a leash or lead and under the control of a
295 responsible and competent person; or off leash but under the
296 direct control of a responsible and competent person who is
297 physically present with the animal, provided that such animal is
298 obedient to that person's command.
299 (c) Any animal that is housed outside of its owner's house shall be
300 housed in a proper enclosure that complies with the provisions of
301 this Code. The owner shall also ensure that the proper enclosure
302 contains at least 100 square feet of open space.
303 (d) Tethering of an animal is prohibited.
304 (e) As a secondary means of restraint to a proper enclosure, an
305 animal may be attached to a running cable line or trolley system
306 providing that:
307 (1) A running cable line or trolley system is set inside a
308 proper enclosure;
309

- 310 (2) Only one animal may be attached to each running cable
311 line or trolley system;
- 312 (3) No animal may be attached to a running cable line or
313 trolley system for more than 12 hours in a 24-hour period;
- 314 (4) No animal may be attached to a running cable line or
315 trolley system between the hours of 10:00 p.m. and 6:00
316 a.m.;
- 317 (5) Tethers and cables attaching the animal to the running
318 cable line or trolley system must be made of a substance
319 which cannot be chewed by the animal and shall not
320 weigh more than five percent of the body weight of the
321 animal tethered;
- 322 (6) A running cable line or trolley system must have a swivel
323 installed at each end and be attached to a stationary object
324 that cannot be moved by the animal;
- 325 (7) The running cable line or trolley system must be at least
326 ten feet in length and mounted at least four feet and no
327 more than seven feet above ground level;
- 328 (8) The length of the tether from the running cable line or
329 trolley system to the animal's collar should allow access to
330 the maximum available exercise area and allow the animal
331 free access to food, water, and shelter;
- 332 (9) Be attached to a properly fitted harness or collar not used
333 for the display of a current rabies tag and other
334 identification; and with enough room between the collar
335 and the dog's throat through which two fingers may fit.
336 Choke collars and pinch collars are prohibited for the
337 purpose of tethering an animal to a running cable line or
338 trolley system; and

339 (10) Be tethered at sufficient distance from any other objects to
340 prohibit the tangling of the cable, from extending over an
341 object or an edge that could result in injury of
342 strangulation of the animal and be of sufficient distance
343 from any fence so as to prohibit the animal access to the
344 fence.

345 (f) If an electronic animal confinement system is used to confine an
346 animal, it shall:

347 (1) Provide a properly fitted and working signal device that
348 will be worn by the animal to be enclosed.

349 (2) Contain permanent and prominently displayed signs at 25
350 feet intervals around the entire perimeter of the electronic
351 animal confinement system. The signs shall be no smaller
352 than six inches square, and shall read: "Caution—
353 Electronic Animal Confinement System."

354 **Sec. 5-4. Duty to Restrain while off Owner's Property.**

355 It shall be the duty of any person to keep an animal under restraint and
356 control, at heel or on a leash, at all times while the animal is off the real
357 property limits of the owner. Such areas shall not include areas of city
358 parks that are specifically designated by appropriate signage and fencing
359 as off leash areas. In the absence of such signage and fencing, an animal
360 must be under restraint and control within all city parks.

362 **Sec. 5-5. Animals at Large.**

363 It shall be unlawful for the owner of an animal to allow it to run at large
364 unattended on or about the streets, rights-of-way, and highways of the
365 City of Stonecrest; in any City of Stonecrest park, except in city parks
366 that are specifically designated by signage and fencing as off leash areas;
367 unattended on or about the common property of any apartment complex
368 or condominium community; or on the property of another person
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370 without permission of the owner of that property. This section shall not
371 apply to dogs being used for hunting in accordance with state law, rules
372 and regulations.

373 **Sec. 5-6. Abandonment.**

374 It shall be unlawful for anyone to knowingly abandon, or to aid in the
375 abandonment of, any domesticated animal on any property located in the
376 City of Stonecrest.
377

378 **Sec. 5-7. Neglect.**

379 It shall be unlawful for any owner to neglect an animal.
380

381 **Sec. 5-8. Cruelty to Animals.**

382 (a) It shall be unlawful for any person to commit an act of cruelty
383 towards any animal, except that a person may:

384 (1) Defend his person or property, or the person or property
385 of another, from injury or damage being caused by an
386 animal; or

387 (2) Kill any animal causing injury or damage to any livestock,
388 poultry or pet animal.

389 (b) The method used for killing the animal shall be as humane as
390 possible under the circumstances. A person who humanely kills
391 an animal under the circumstances indicated in subsection (a) of
392 this section shall incur no penalty for such death.

393 (c) This section shall not be construed to limit in any way the
394 authority or duty of any law enforcement officer, dog or rabies
395 control officer, humane society or veterinarian.
396

397 **Sec. 5-9. Required Permanent Identification.**

398 It shall be the duty of every animal owner who has been convicted, in a
399 court of competent jurisdiction, of abandonment, cruelty or neglect of an
400 animal, or who owns a classified animal, to have the animal permanently
401

402 identified by insertion of a microchip by a licensed veterinarian. Said
403 chip must be registered with the chip parent company and the police
404 department.

405 **Sec. 5-10. Dangerous and Vicious Animals.**

- 406
- 407 (a) Pursuant to the city's Charter, section 1.03(b)(1), if the police
408 chief learns of the existence of a dangerous animal or vicious
409 animal, the police chief, or his designee, which may include
410 county animal control officers, shall then cause a summons to be
411 issued requiring the owner of the animal to appear before a judge
412 of the City of Stonecrest Municipal Court or DeKalb County
413 magistrate court, as specified below, at a date and time certain no
414 earlier than 15 days after service, to conduct a hearing as to the
415 appropriate classification of the animal. The summons so issued
416 shall be served on the owner personally. The police chief and/or
417 county animal control officers shall also immediately impound
418 the animal believed to be dangerous or vicious.
- 419 (b) The court shall determine after a hearing if the animal is to be
420 classified as a dangerous animal or vicious animal. In making its
421 findings in this regard, the court shall enter a written order
422 notifying the animal's owner and the police chief of its decision.
423 In addition to a finding that the animal is to be classified as
424 provided herein, the Court may also order that the boarding and
425 cost of confinement of the animal is to be paid by the owner, and
426 such other restitution as appropriate, under the facts developed at
427 the hearing.
- 428 (c) The appeal of any order of the court concerning the classification
429 of an animal as vicious or dangerous shall be by petition for writ
430 of certiorari to the Superior Court of DeKalb County.
- 431 (d) If the court classifies the animal as dangerous or vicious, and no
432 appeal is filed, the owner shall be required to obtain from the

433 police chief an annual certificate of registration in compliance
434 with the requirements of this Chapter. No vicious or dangerous
435 animal shall be released to its owners until such certificate is
436 issued by the police chief or designee.

437 (e) If the owner fails to obtain the certificate of registration within
438 thirty (30) days of the issuance of the order classifying the animal
439 as dangerous or vicious, the animal will be euthanized no earlier
440 than thirty-five (35) days after the issuance of the order so
441 classifying the animal. The animal shall not be euthanized if the
442 owner appeals the court's classification order by petition for writ
443 of certiorari to the Superior Court of DeKalb County within thirty
444 (30) days after the order of classification. During the pendency of
445 the appeal and any further appeals, the animal shall not be
446 euthanized, provided that in the event the classification order is
447 upheld at the conclusion of all appeals, the animal shall be
448 euthanized no earlier than 35 days after the final order upholding
449 the classification if the owner does not obtain the required
450 certificate of registration within 30 days after the date of the final
451 order of court upholding the classification order. During the
452 pendency of any such appeal by the owner, the animal shall not
453 be released to its owner until the appeal is concluded and the
454 certificate of registration is issued to the owner, if applicable. In
455 such event, the animal will be housed at a licensed veterinarian's
456 office or a licensed kennel and the cost of such detention shall be
457 borne by the owner of the animal. In the event the city appeals the
458 court's order, the animal shall not be released to its owner until
459 the appeal is concluded and the certificate of registration is issued
460 to the owner, if applicable. In the event of an appeal by the City,
461 the animal will be housed in the animal service center and the
462 cost of such detention shall be borne by the City.

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Sec. 5-11. Exemptions from Classification as a Dangerous or Vicious Animal.

An animal shall not be classified as a dangerous animal or vicious animal:

- (1) When the animal bites, attacks or menaces anyone who assaults the animal's owner;
- (2) When the animal bites, attacks or menaces anyone who willfully trespasses, or commits another tort, upon the property of the owner;
- (3) When the animal bites, attacks or menaces anyone who is currently, or has in the past, tormented or abused the animal;
- (4) Where the animal is acting in defense of an attack from a person or other animal upon the owner or other person;
- (5) Where the animal is protecting or defending its young or another animal;
- (6) Where the animal is being used by a law enforcement or military officer to carry out official duties; or
- (7) When the animal bites, attacks or menaces anyone who is committing or attempting to commit an offense in violation of O.C.G.A. § 16-5-1 et seq.

Sec. 5-12. Certificate of Registration.

- (a) The owner of a classified animal must be 18 years old or older; annually obtain a certificate of registration for the animal from the city; and, pay an annual registration fee to be determined by the City Council. At the time of renewal, the City shall verify that the owner is continuing to comply with all applicable provisions of this Chapter. The requirements of this section apply to any classified animal living in the City of Stonecrest.

- 494 (b) Certificates of registration are nontransferable and no more than
495 one certificate of registration shall be issued per domicile. The
496 certificate of registration shall be issued to the owner upon
497 receipt of all of the following:
- 498 (1) Written evidence that the animal is permanently identified
499 by insertion of a microchip by a licensed veterinarian.
500 Said chip must be registered with the chip parent company
501 and the City police department within 30 days of an order
502 classifying the animal as dangerous or vicious or within
503 such later time as specified by a court of competent
504 jurisdiction or within 30 days of the conclusion of any
505 appeal of a court's order that upholds the classification of
506 an animal as dangerous or vicious;
- 507 (2) A copy of a current policy of insurance in the minimum
508 amount of \$50,000.00 issued by an insurer authorized to
509 transact business in the State of Georgia, insuring the
510 owner of a dangerous animal, and \$75,000.00 insuring the
511 owner of a vicious animal, against liability for any
512 personal injuries or property damage inflicted by the
513 dangerous animal or vicious animal; or a copy of a current
514 surety bond in the foregoing respective amounts issued by
515 a surety company authorized to transact business in the
516 State of Georgia, payable for property damage or personal
517 injury caused by the dangerous or vicious animal;
- 518 (3) Written or photographic proof that the animal will be
519 confined in a classified animal pen; and
- 520 (4) Written evidence that the animal has been sterilized by a
521 licensed veterinarian.
- 522 (c) The owner of a classified animal shall notify the police within 24
523 hours if the animal dies. If the animal dies, the body must be

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available for microchip scanning to provide positive identification of the dangerous animal or vicious animal. A vicious animal shall not be transferred, sold or donated to any other person unless it is relinquished to a governmental facility or a veterinarian to be euthanized. If a dangerous animal is sold or given to another person, the current owner listed on the most current certificate of registration must provide the police chief with the name, address, and telephone number of the new owner within 30 days of the sale or transfer of such animal. New owners of dangerous animals are subject to all requirements of this Code upon transfer of such animal and such new owner must register the animal in his or her name within 30 days of the sale or transfer of the animal to such new owner.

(d) The owner of a classified animal must notify the police department in writing within 15 days after changing his/her address. Such written notice shall provide the owner's new address and telephone number. The owner shall promptly obtain a new certificate of registration reflecting the new address if such address is located within the City.

(e) The owner of a classified animal shall notify the police in writing within 72 hours after moving a classified animal into the City. Such written notice shall provide the address and telephone number of the owner and the owner shall obtain a certificate of registration for the animal within 72 hours after moving into the city.

(f) No certificate of registration shall be issued to any person who has been convicted of two or more violations of this Chapter. No person shall be the owner of more than one vicious animal. No certificate of registration for a vicious animal shall be issued to any person who has been convicted of:

- 554 (1) A serious violent felony as defined in O.C.G.A. § 17-10-
555 6.1;
556 (2) The felony of dog fighting as provided for in O.C.G.A. §
557 16-12-37 or the felony of aggravated cruelty to animals as
558 provided for in O.C.G.A. § 16-12-4; or
559 (3) A felony involving trafficking in cocaine, illegal drugs,
560 marijuana, methamphetamine, or ecstasy as provided for
561 in O.C.G.A. §§ 16-13-31 and 16-13-31.1 from the time of
562 conviction until two years after completion of his or her
563 sentence. The restrictions imposed by this subsection also
564 apply to any person residing with such convicted person.

565 **Sec. 5-13. Confinement of Dangerous or Vicious Animals.**

- 566 (a) Classified animals shall be confined in a classified animal pen.
567 (b) The owner of a classified animal must post signs on all means of
568 ingress and egress to the premises where the animal resides. Such
569 signs shall read in letters at least three-quarters of an inch high:
570 "Dangerous/Vicious Animal on Property." Such signs shall be no
571 smaller than eight and five-tenths by 11 inches.
572 (c) Whenever outside its classified animal pen, but on the owner's
573 property, a classified animal shall be attended by the owner,
574 muzzled by any means sufficient to prevent the biting of persons
575 or animals, and restrained by a secure collar and leash of
576 sufficient strength to prevent escape. Such leash shall not exceed
577 three feet in length.
578 (d) No classified animal shall be permitted off the property of its
579 owner unless accompanied by the owner, muzzled by any means
580 sufficient to prevent the biting of persons or animals, and
581 restrained by a secure collar and leash of sufficient strength to
582 prevent escape. Such leash shall not exceed three feet in length.
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In the alternative, the classified animal when off the owner's property may be contained in a closed and locked cage or crate.

(e) The owner of a classified animal shall make the animal and the area of confinement available for periodic, unannounced inspections by a City police officer or county animal control officers to ensure compliance with the confinement requirements of this Chapter, provided that the owner consents to such entry and inspection. If consent is not obtained, the officer(s) shall obtain an inspection warrant prior to any inspection in accordance with the requirements of state law.

Sec. 5-14. Transportation of Animals in Open Air Vehicles.

If transporting an animal in an open-air vehicle, the owner is responsible for securing the animal so as to prevent the animal from escaping out of the vehicle, getting tangled, or extending over the edge of the vehicle such that injury or strangulation of the animal could result while the vehicle is in motion. For classified animals the requirements of this section are in addition to the requirements outlined in section 5-13.

Sec. 5-15. Hazardous Animals.

No person shall own, keep, harbor, house, or permit to be kept, harbored or housed, a hazardous animal within the City of Stonecrest, unless granted prior written approval from the City Manager. Written approval may be granted upon presentation of photographic proof that the animal will be kept adequately restrained or confined as is common for the species.

Sec. 5-16. Guard Dogs.

It shall be the duty of the owner of a guard dog to display in a prominent place on their premises, and at each entrance or exit to the area where such dog is confined, a sign which reads, in letters at least three-quarters

615 of an inch high, "Guard Dog," and lists the name and contact number of
616 the owner of the dog in same size type. Such signs shall be no smaller
617 than eight and five-tenths by 11 inches.

618 **Sec. 5-17. Rabies Tag; Rabies Vaccination and Animal Registration.**
619

- 620 (a) The requirements of this section only apply to owners of dogs,
621 cats or ferrets, provided the dog, cat or ferret is three months old
622 or older.
- 623 (b) The city manager, or his designee (which may include the
624 DeKalb County animal control department) shall promulgate and
625 administer the process for verification of rabies vaccinations and
626 registration of dogs, cats or ferrets set forth in this section and
627 may utilize city employees or third parties to handle any or all
628 parts of this process. The city manager, or his designee, shall
629 determine what information is needed from veterinarians and
630 owners in order to verify rabies vaccinations and complete the
631 required registration process.
- 632 (c) It shall be the duty of any owner of any dog, cat, or ferret to
633 obtain a current rabies vaccination from a licensed veterinarian
634 periodically as ordered by the veterinarian.
- 635 (d) After vaccination, it shall be the duty of any owner of any dog,
636 cat or ferret to register each inoculated animal with the City or its
637 designee and pay a registration fee in an amount to be established
638 by the City.
- 639 (e) Veterinarians shall verify that an animal has received a rabies
640 vaccination and shall advise the City or its designee of said
641 vaccination in a manner and form specified by the City or
642 designee.
- 643 (f) Each veterinarian shall obtain registration information from the
644 owner of each inoculated animal and shall forward such
645 information and verification of the rabies vaccination to the City

- 646 or its designee within 30 days of inoculation of every dog, cat, or
647 ferret.
- 648 (g) Upon receipt of verification of rabies vaccination and the
649 required registration information, the City or its designee shall
650 contact the owner of the inoculated dog, cat, or ferret and shall
651 require the owner to register the animal with the City. Upon
652 registration of the dog, cat or ferret and payment of the
653 registration fee, the City or its designee shall forward the
654 appropriate rabies inoculation tag for that animal to the owner.
- 655 (h) Registration also can be handled through a licensed veterinarian's
656 office at the time of inoculation in the manner provided in this
657 section. If a veterinarian agrees to handle registration, rabies
658 inoculation tags shall be provided to licensed veterinarians. At
659 the time of inoculation, veterinarians shall request that owners
660 simultaneously pay the City's registration fee, which if collected
661 shall be forwarded with the registration form and rabies
662 certificate to the City or its designee by the veterinarian. For
663 every registration fee collected by the veterinarian and remitted to
664 the City or its designee, the veterinarian may keep an
665 administrative processing fee in an amount to be established by
666 the City Council.
- 667 (i) If an owner refuses to pay the registration fee to the veterinarian,
668 the veterinarian shall notify the City or its designee of such
669 refusal when it forwards the rabies certificate and the completed
670 registration form to the city or its designee. Thereafter, the owner
671 shall pay the registration fee directly to the City or its designee.
- 672 (j) It shall be the duty of any owner of a dog, cat, or ferret to provide
673 a collar or harness for such animal. The collar or harness,
674 together with the rabies inoculation tag, shall be worn by the
675 animal at all times.

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Sec. 5-18. Rabies Vaccination Required for Reclaim of an Animal.

An owner reclaiming an animal three months of age and older from the City-designated facility shall present proof of a current rabies vaccination at time of reclaim. If proof is unavailable, and a veterinarian is on duty and available at the facility, the vaccine will be administered by the veterinarian at the owner's expense.

Sec. 5-19. Enforcement Generally.

- (a) As authorized in section 1.03(b)(1) of the Charter of the City of Stonecrest, the police chief or his designee, which may include DeKalb County Animal Control personnel, shall enforce the provisions of this Chapter.
- (b) Upon information learned by, or complaint lodged with, the police chief that an animal owner is in violation of this Chapter, the police chief shall cause a summons to be issued requiring the owner of the animal to appear before a judge of the City of Stonecrest municipal court, or the DeKalb County Magistrate Court, at a date and time certain, to stand trial for the violation. If a violation has not been personally witnessed by the police chief or other law enforcement officer, a subpoena shall be issued to the person making the complaint, along with any witness(es), to appear on the date and time set for trial, to testify on behalf of the City.
- (c) The police chief or designee may respond to anonymous complaints of violations of this Chapter. If the owner or custodian of an animal is unknown or not present, and such animal is upon the public streets, alleys, sidewalks, school grounds or other public places or premises, or is upon another person's property without permission or absent proper restraint, or is a classified animal as to which the registration, confinement or insurance

- 707 requirements have not been met, the police or designated animal
708 control officer shall immediately impound the animal in a facility
709 designated for the detention of animals. Once impounded, the
710 animal shall be kept for a period of time as set forth in section 5-
711 22. Thereafter, if the animal is not claimed, the animal may be
712 disposed of in a humane fashion in accordance with the
713 provisions of O.C.G.A. § 4-11-5.1 et seq.
- 714 (d) Any stray cat without any traceable form of identification that is
715 impounded or brought to the animal service center and deemed
716 eligible may be transferred immediately to the community cat
717 program.
- 718 (e) Any community cat or unowned, free-roaming cat that is not
719 healthy in the opinion of qualified animal control officers shall be
720 impounded. No healthy community cat shall be impounded unless
721 it:
- 722 (1) Damages the personal or private property of a person or
723 legal entity that seeks its impoundment; or
724 (2) Creates unsanitary conditions, offensive or objectionable
725 odors.
- 726 If a healthy community cat is impounded pursuant to this
727 subsection (e), upon impoundment, it shall be transferred to a
728 qualified adoption facilitator or disposed of by the city or its
729 designated animal control officers.
- 730 (f) An animal may be euthanized when, in the judgment of the police
731 chief or the DeKalb County Animal Control official, it is
732 determined that:
- 733 (1) At the scene of an accident an animal is injured beyond
734 medical help, and no traceable form of identification is
735 displayed on the animal;

- 736 (2) An animal presented to the animal service center without
737 traceable form of identification is injured beyond medical
738 help, or exhibits obvious signs of infectious disease or
739 parasite infestation that would impose a health risk to
740 animals housed in the animal service center; and
- 741 (3) A veterinarian has determined from all the circumstances
742 that it would be inhumane not to euthanize a particular
743 animal.
- 744 (g) The judge of any court of competent jurisdiction, including the
745 Municipal Court of the City of Stonecrest, within the state may
746 order the euthanasia of an animal if the court finds, after notice
747 and opportunity for hearing, that the animal has seriously injured
748 a human or presents a danger to humans not suitable for control
749 under this Chapter and:
- 750 (1) The owner or custodian of the animal has been convicted
751 of a violation of any state criminal law and the crime was
752 related to such animal; or
- 753 (2) Any local governmental authority has filed with the court
754 a civil action requesting the euthanasia of the animal.
- 755 (h) A judge of the municipal court, the magistrate court or the state
756 or superior court shall order the euthanasia of any animal if the
757 court finds, after notice and the opportunity for hearing, that the
758 animal has caused a serious injury to a human on more than one
759 occasion.

760 **Sec. 5-20. Right of Entry.**

761 The police chief or designated animal control officer may use any force
762 reasonably necessary to remove any animal locked in a closed vehicle if
763 the animal exhibits distress, including but not limited to, excessive
764 panting or drooling, seizures, state of unconsciousness, or hyperactivity.
765

766 If the vehicle is damaged during such removal, the officer shall not be
767 liable for any damage to the vehicle.

768 **Sec. 5-21. Fees and Miscellaneous Regulations.**
769

770 (a) The fee schedule and refund policy with respect to all services
771 performed in connection with enforcement of this Chapter shall
772 be set in accordance with the fee schedule of the City of
773 Stonecrest. The fee schedule and refund policy shall be
774 maintained by the city clerk and a copy shall be available to the
775 public.

776 (b) Veterinarians shall return spay/neutered certificates to the chief
777 of police or designated animal control officer within 30 days of
778 the date of surgery. Vouchers for city requested sterilization
779 submitted by veterinarians for payment more than one year a tier
780 the date of surgery will not be honored for payment.

781 **Sec. 5-22. Notice to Owner of Impounded Animal.**
782

783 (a) Upon impounding an animal with identification, the City shall
784 make a prompt and reasonable effort to locate the animal's owner.
785 Upon location thereof, the City shall send to such owner
786 notification of impoundment. For the purpose of this Chapter,
787 sufficient notice shall be by phone, hand delivery, or regular
788 United States mail to the animal's owner.

789 (b) If an animal is not claimed by the owner or custodian thereof
790 within five business days after notice of impoundment is mailed
791 or otherwise provided as set forth above, the City may offer the
792 animal for adoption or transfer the animal to a qualified adoption
793 facilitator, provided the following conditions are met:

- 794 (1) The animal appears to be in good health;
795 (2) The animal has not been classified as dangerous or
796 vicious;

797 (3) The animal is not known to have bitten a human without
798 provocation or to have bitten a human under
799 circumstances that in the opinion of the chief of police or
800 designated animal control officer make it likely that the
801 animal will bite humans again.

802 Alternatively, the City may dispose of the animal after five
803 business days.

804 (c) If the impounded animal is not wearing a rabies tag or a tag or
805 microchip identifying the name, address, and telephone number
806 of the animal's owner or custodian, the City may place the animal
807 for adoption or transfer the animal to a qualified adoption
808 facilitator after three business days following impoundment. The
809 City may dispose of the animal after five business days following
810 impoundment.

811 (d) In no event shall a lawful owner be allowed to reclaim an animal
812 until all fees required by this Code are paid to the City including
813 any medical fees incurred due to the health of the animal and its
814 treatment.

815 (e) If the owner of the impounded animal cannot be located, then
816 such owner shall be conclusively presumed to have given consent
817 to the adoption of the impounded animal, or to have given
818 consent to euthanize the animal in accordance with O.C.G.A. § 4-
819 11-5.1 and § 4-5-1 et seq.

820 **Sec. 5-23. Limiting Adoptions.**

821 (a) The City or DeKalb County Animal Control reserves the right to
822 refuse to allow any person to adopt an animal in the City's
823 custody or control. Any individual wishing to adopt an animal
824 from the City must provide proof of ownership of residence, or
825 permission of the property owner for the animal to reside at a
826 particular location. No person who surrenders ownership of an
827

828 animal to the City may adopt an animal for a period of five years
829 after the surrender, without a written waiver from the police chief
830 or designated animal control officer.

831 (b) Animals not placed for adoption through the city program may be
832 made available to qualified adoption facilitators, rescue groups
833 and animal shelters on a first come first served basis. Upon
834 request, qualified adoption facilitators, rescue groups and animal
835 shelters must provide proof of Georgia State licensing or proof of
836 non-profit status under Section 501(c)(3) of the Internal Revenue
837 Code if incorporated outside the State of Georgia prior to
838 receiving animal(s). Qualified adoption facilitators, rescue groups
839 and animal shelters may be required to pay a qualified adoption
840 facilitator/rescue fee and reimburse the City for any medical
841 care/testing done on the animal by the City or its agents.

842 (c) Any person convicted of cruelty, neglect or abandonment of an
843 animal will not be allowed to adopt an animal from the animal
844 service center for five years after the date of conviction, without
845 written waiver from the police chief.

846 **Sec. 5-24. Ownership.**
847

848 (a) It shall be unlawful for any person to abandon, sell, trade, swap
849 or give away animals within the real property limits of buildings
850 or surrounding grounds belonging to the City of Stonecrest
851 Government.

852 (b) It shall be unlawful for any person to give away or sell any
853 animal on any public roadway in City of Stonecrest.

854 **Sec. 5-25. Sterilization.**
855

856 (a) It shall be the duty of the owner of a dog or cat declared to be a
857 classified animal by a court of competent jurisdiction to have the
858 animal sterilized. Such sterilization must be performed by a

859 licensed veterinarian within 30 days of a final order of a court of
860 competent jurisdiction finding that the dog or cat is a classified
861 animal.

862 (b) It shall be the duty of the owner and/or qualified adoption
863 facilitator, rescue group or animal shelter to have a dog or cat
864 adopted from the City sterilized. Puppies and kittens must be
865 sterilized by a licensed veterinarian within six months of the date
866 of adoption. Adult dogs and cats must be sterilized by a licensed
867 veterinarian within 30 days of the date of adoption.

868 (c) Owners of ferrets must comply with any state law applicable to
869 ferrets.

870 (d) Unowned, free-roaming cats shall be vaccinated, sterilized and
871 ear tipped as part of the community cat program. Cats brought
872 into the community cat program are exempt from registration,
873 licensing, and stray animal provisions of this Chapter, shall not
874 be deemed abandoned when returned to the location where
875 captured, and as necessary and appropriate, may be exempt from
876 other provisions of this Code applicable to owned animals.

877
878 **Sec. 5-26. Transient Animals.**

879 A dog, cat, or ferret shipped or transported through the city or entering
880 the city for less than 15 days shall be exempt from licensing fees and
881 collar and tag sections of this Chapter. However, all other provisions of
882 this Chapter are applicable to such transient animals. In addition, proof
883 of a current rabies vaccination or health certificate for such animal must
884 be available for inspection by the police chief or designated animal
885 control officer at any time the animal is within the boundaries of the city.

886
887 **Sec. 5-27. Limitation on Ownership.**

888 (a) Any person who has been convicted of cruelty, neglect or
889 abandonment of an animal as provided in this Code or state law,

890 and has relinquished ownership of said animal, shall not be
891 allowed to own a pet in their household in the City of Stonecrest
892 for five years measured from the date of conviction.

893 (b) Any person who has been convicted of failure to keep an animal
894 under restraint while on owner's property as provided in this
895 Code, or has been ordered by a court to meet additional
896 confinement requirements and has not complied with the court's
897 order, shall not be allowed to own a pet in their household in the
898 City of Stonecrest for five years measured from the date of
899 conviction or court order.

900 **Sec. 5-28. Violations and Enhanced Penalties.**
901

902 (a) Any person who does anything prohibited or fails to do anything
903 required by this Chapter, upon citation by the police chief or
904 designated animal control officer, and conviction of the violation
905 in a court of competent jurisdiction may be subject to fine and/or
906 imprisonment in accordance with this Code. Where any offense
907 or violation continues from day to day, each day's continuance
908 thereof shall be deemed a separate offense.

909 (b) A classified animal shall be immediately impounded by any city
910 police officer, code enforcement officer or animal enforcement
911 officer if such animal or its owner has violated any of the
912 requirements of this Chapter. Any animal, whether classified or
913 not, may be impounded if such officer believes the animal poses a
914 threat to the public.

915 (c) The owner of a classified animal shall notify the police chief, or
916 designated animal control officer, as soon as the owner discovers
917 that the animal is on the loose, unconfined, or has attacked a
918 human or another animal, and failure to so notify the police chief
919 or animal control officer shall be a violation of this Chapter by
920 the owner of the animal.

- 921 (d) It shall be a violation of this Chapter for any person to possess
922 within the City a classified animal without a certificate of
923 registration issued in accordance with the provisions of this
924 Chapter.
- 925 (e) Upon a second or subsequent conviction of any violation of this
926 Chapter by the owner of a classified animal, the court may
927 impose a fine of not less than \$500.00 in addition to any other
928 penalty or punishment imposed by the court.
- 929 (f) Upon a second or subsequent conviction for a violation of this
930 Chapter by the owner of a vicious animal, the court may order the
931 animal to be euthanized.
- 932 (g) Upon a third or subsequent conviction for a violation of
933 subsection 5-2(c), the court may impose a fine of not less than
934 \$300.00 in addition to any other penalty or punishment imposed
935 by the court.
- 936 (h) Upon a third or subsequent conviction of a violation of section 5-
937 3, the court shall require the owner to confine the animal in a
938 classified animal pen, irrespective of whether the animal is
939 classified as vicious or dangerous.
- 940 (i) Upon a third or subsequent conviction for a violation of section
941 5-4, the court may impose a fine of not less than \$300.00 in
942 addition to any other penalty or punishment imposed by the court.
- 943 (j) Upon a second or subsequent conviction for a violation of section
944 5-7, the court may impose a fine of not less than \$500.00 in
945 addition to any other penalty or punishment imposed by the court.
- 946 (k) Upon any conviction for a violation of section 5-8, the court may
947 impose a fine of not less than \$800.00 in addition to any other
948 penalty or punishment imposed by the court.

- 949 (l) Upon a second or subsequent conviction of a violation of section
950 5-16, the court may impose a fine of not less than \$500.00 in
951 addition to any other penalty or punishment imposed by the court.
- 952 (m) Upon a second or subsequent conviction for a violation of section
953 5-17, the court may impose a fine of not less than \$300.00 in
954 addition to any other penalty or punishment imposed by the court.
- 955 (n) Upon conviction for a violation of section 5-7 where the factual
956 basis for the conviction is a failure to install, use or remove a
957 heavy rubber or plastic flap from an outdoor structure used to
958 house an animal, the maximum sentence may be \$25.00 fine and
959 the court, in its sole discretion, is allowed not to impose a fine.

960
961 **Sec. 5-29. OCVI Health Certificate Required.**

- 962 (a) The owner of any cat or dog, sterilized or unsterilized, that is
963 sold, or exchanged for valuable consideration is required to give
964 the new owner a current, valid OCVI health certificate at the time
965 of exchange or sale. The OCVI health certificate must be
966 available for review by potential new owners at the time any dog
967 or cat is offered for sale or exchange, for valuable consideration.
968 A current OCVI health certificate must be presented to any
969 animal control officer upon request for review.
- 970 (b) Qualified adoption facilitators, rescue groups, and animal shelters
971 are exempt from the requirements of this section.
- 972 (c) Each animal found to be without an OCVI health certificate shall
973 be considered a separate violation of this section by the owner of
974 the animal. Animals shall not be subject to impoundment for
975 violations of this section.

976
977 **Sec. 5-30. Classification of Animals in Previous Ordinances.**

978 Any animal classified prior to the effective date of this Chapter as a
979 potentially dangerous animal shall on and after that date be classified as

980 a dangerous animal under this Chapter. Any animal classified prior to the
981 effective date of this Chapter as a dangerous animal shall on and after
982 that date be classified as a vicious animal under this Chapter.

983
984 **Sec. 5-31. Limitation of Liability and Classification.**

985 Any irregularity in classification proceedings shall not be a defense to
986 any prosecution under this Chapter so long as the owner of the animal
987 received actual notice of the classification and did not pursue correction
988 of the irregularity. Under no circumstances shall the City or any of its
989 elected officials, employees, or officers be held liable for any damages to
990 any person who suffers an injury inflicted by an animal as a result of a
991 failure to enforce the provisions of this Chapter.

992
993 **Section 2:**

- 994
- 995 1. It is hereby declared to be the intention of the Mayor and City Council that all
996 sections, paragraphs, sentences, clauses and phrases of this Ordinance are and
997 were, upon their enactment, believed by the Mayor and City Council to be fully
998 valid, enforceable and constitutional.

999

 - 1000 2. It is hereby declared to be the intention of the Mayor and City Council that, to the
1001 greatest extent allowed by law, each and every section, paragraph, sentence,
1002 clause or phrase of this Ordinance is severable from every other section,
1003 paragraph, sentence, clause or phrase of this Ordinance. It is hereby further
1004 declared to be the intention of the Mayor and City Council that, to the greatest
1005 extent allowed by law, no section, paragraph, sentence, clause or phrase of this
1006 Ordinance is mutually dependent upon any other section, paragraph, sentence,
1007 clause or phrase of this Ordinance.

1008

 - 1009 3. In the event that any phrase, clause, sentence, paragraph or section of this
1010 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional
1011 or otherwise unenforceable by the valid judgment or decree of any court of
1012 competent jurisdiction, it is the express intent of the Mayor and City Council that
1013 such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent
1014 allowed by law, not render invalid, unconstitutional or otherwise unenforceable
1015 any of the remaining phrases, clauses, sentences, paragraphs or sections of the
1016 Ordinance and that, to the greatest extent allowed by law, all remaining phrases,

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

1017 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid,
1018 constitutional, enforceable, and of full force and effect.

1019

1020 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict
1021 herewith are hereby expressly repealed.

1022

1023 5. The within ordinance shall become effective upon its adoption.

1024

1025 6. The provisions of this Ordinance shall become and be made part of The Code of
1026 the City of Stonecrest, Georgia, and the sections of this Ordinance may be
1027 renumbered to accomplish such intention.

1028

1029 **SO ORDAINED AND EFFECTIVE** this the ____ day of _____,

1030 2019.

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Approved:

1035

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1037

1038

Jason Lary, Sr., Mayor

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As to form:

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Winston A. Denmark, City Attorney

1045 Attest:

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1049 _____
Megan P. Reid, City Clerk



COUNCIL MEETING AGENDA ITEM

SUBJECT: Motor Vehicles Ordinance (Chapter 17)

- | | | |
|---|-------------------------------------|--|
| <input checked="" type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input type="checkbox"/> OTHER |

Council Meeting: 04/22/2019

SUBMITTED BY: Christa Freeman

PURPOSE: 2nd Reading

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING
CHAPTER 17 (MOTOR VEHICLE REGULATIONS) OF THE CITY CODE**

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3
4 **WHEREAS,** the City of Stonecrest Mayor and City Council are authorized by the City
5 Charter to provide for the general health, safety and welfare of the citizens
6 of the City;

7
8 **WHEREAS,** the City of Stonecrest Mayor and City Council find it beneficial to the
9 welfare of the citizens to provide for regulation and administration of
10 motor vehicle regulations in the City; and

11
12 **WHEREAS,** this Ordinance shall be adopted as part of the City of Stonecrest City
13 Code, as Chapter 17 (Motor Vehicle Regulations).

14
15 **THEREFORE,** the Mayor and City Council of the City of Stonecrest, Georgia hereby
16 ordain as follows:

17
18 **Section 1:** The Mayor and City Council of the City of Stonecrest, Georgia hereby
19 adopt an Ordinance designated as "Chapter 17. Motor Vehicles Regulation" of the City
20 Code to read and be codified as follows:

21
22 **CHAPTER 17. MOTOR VEHICLE REGULATIONS.**

23
24 **ARTICLE 1: GENERAL PROVISIONS**

25
26 **Sec. 17-1. - Adoption of State of Georgia Motor Vehicles Regulations.**

27 (a) The following provisions are adopted by reference as if set out at length in this
28 chapter: (1) O.C.G.A. § 40-1-1; (2) O.C.G.A. title 40, chapter 6 [§ 40-6-1 et
29 seq.]; and (3) O.C.G.A. title 46, chapter 7 [§ 46-7-1 et seq.].

30 (b) Unless another penalty is expressly provided by law, every person convicted
31 of a violation of any provision of this chapter shall be punished as provided in
32 Chapter 1.

33
34 **Sec. 17-2. - Chapter does not affect property rights.**

35 Nothing in this chapter shall be construed to prevent the owner of real property
36 used by the public for purposes of vehicular travel by permission of the owner,
37 and not as matter of right, from prohibiting such use, or from requiring other or
38 different or additional conditions than those specified herein, or otherwise
39 regulating such use as may seem best to such owner.

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Sec. 17-3. - Applicability to public officers and employees.

The provisions of this chapter applicable to the drivers of vehicles upon the streets and highways shall apply to the drivers of all vehicles owned or operated by the public officers and employees of this City, the United States, any state or any city, county, town, district or any other political subdivision of the state, except as otherwise provided.

Sec. 17-4. - Owners or persons directing drivers of vehicles not to permit violation.

It is unlawful for the owner or any other person employing or otherwise directing the driver of any vehicle to require or knowingly permit the operation of that vehicle upon a street or highway in any manner contrary to this chapter.

Sec. 17-5. - Use of vehicle without consent of the owner.

It shall be unlawful for any person to take, use or operate any motor vehicle or motorcycle upon the public streets and highways of the city without the permission of the owner thereof.

Sec. 17-6. - Obstructions to right-of-way.

(a) Prohibited. It shall be unlawful for any person to obstruct the right-of-way of any public road, street or other easement in the unincorporated area of the city by placing or maintaining thereon any obstruction, whether it is in the nature of shrubbery, signs, fences or whatever, which interferes with the clear view of motorists or the free passage of pedestrians thereon.

(b) Notice to remove. Wherever any obstruction prohibited by subsection (a) has been placed and is being maintained, the City or its designee shall notify in writing the owner of the obstruction and the owner of the land abutting the right-of-way where the obstruction is found and also the person in possession of the property. Such notice shall state the nature of the obstruction and the

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fact that the obstruction is an interference with the clear view of motorists or the free passage of pedestrians and that it shall be removed within ten (10) days from the date of the notice.

(c) Issuance of summons upon failure to remove. Whenever the person so notified as provided by subsection (b) of this section fails or refuses to remove the obstruction within the time allowed in the written notice, the City or its designee shall issue a summons to this person to appear in court on a day certain to stand trial for the violation.

(d) Continued violations; issuance of summons without notice. If upon conviction for the first offense the person continues to refuse to remove the obstruction, each day that it remains intact shall constitute a new violation of subsection (a) of this section for which the police department shall issue a summons, without first issuing the written notice.

Secs. 17-7—17-25. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT.

DIVISION 1. - GENERALLY.

Secs. 17-26—17-40. - Reserved.

DIVISION 2. - TRAFFIC SIGNS, SIGNALS AND MARKINGS.

Sec. 17-41. - Removal of signs from public rights-of-way.

The City may remove any signs located in public rights-of-way.

Sec. 17-42. - Installation.

The City may cause to be placed and maintained traffic-control signs, signals and devices when and as required under this chapter and other traffic ordinances of

100 the city to make effective the provisions of this chapter and those ordinances. The
101 public works department may cause to be placed and maintained such additional
102 traffic-control devices as deemed necessary to regulate traffic under this chapter
103 and other traffic ordinances of the city or under state law, or to guide or warn
104 traffic.

105
106 **Sec. 17-43. - Designation of crosswalks; establishment of safety zones;**
107 **marking of traffic lanes.**

108 The public works department may, upon approval of mayor and council:

- 109
110 1) Designate and maintain, by appropriate devices, marks or lines upon the
111 surface of the roadway, crosswalks at intersections where there is
112 particular danger to pedestrians crossing the roadway and at such other
113 places as deemed necessary. The city shall make proper studies of all
114 existing crosswalks not at roadway intersections and shall abolish those
115 which are unnecessary.
- 116 2) Establish safety zones of such kind and character and at such places as
117 necessary for the protection of pedestrians.
- 118 3) Mark lanes for traffic on street pavements at places consistent with this
119 chapter and other traffic ordinances of the city.

120
121 **Sec. 17-44. - Specifications for traffic-control devices.**

122 All traffic-control signs, signals and devices shall conform to specifications in the
123 Manual on Uniform Traffic-Control Devices adopted by the state transportation
124 board. All signs and signals required hereunder for a particular purpose shall so
125 far as practicable be uniform as to type and location throughout the city. All
126 traffic-control devices so erected and not inconsistent with the provisions of state
127 law or this chapter shall be official traffic-control devices.

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Sec. 17-45. - One-way streets and alleys.

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Sec. 17-46. - Stop signs or yield signs—generally.

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Sec. 17-47. - Same—Specifications.

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Sec. 17-48. - Through streets.

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(a) Those streets and parts of streets as are designated by this chapter or by ordinance and marked as provided in this chapter are hereby declared to be through streets. (b) In accordance with the foregoing, and when signs are erected giving notice thereof, drivers of vehicles shall stop at every intersection before entering any of the streets or parts of streets listed in 17-351.

160

Sec. 17-49. - Stop signs at grade level crossings.

161

The city shall erect and maintain stop signs in accordance with state standards at
162 all grade level crossings where the need for these signs is determined by an
163 engineering study.
164

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166

Sec. 17-50. - Restricted turn signs.

167

The public works department, upon the approval of the mayor and council, may
168 determine those intersections at which drivers of vehicles shall not make a right or
169 left or U-turn, and shall place proper signs at these intersections. The making of
170 these turns may be prohibited between certain hours of any day and permitted at
171 other hours, in which event the hours shall be plainly indicated on the signs or
172 they may be removed when these turns are permitted.
173

174

Secs. 17-51—17-60. - Reserved.

175

176

DIVISION 3. - IMPOUNDMENT OF VEHICLES.

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Sec. 17-61. - Establishment of vehicle pounds.

179

The chief of police may create a vehicle pound or pounds to which automobiles
180 and other vehicles may be removed by police officers. The pound may be located
181 at such place as may be designated by the city.
182

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Sec. 17-62. - Reasons for impoundment.

185

Whenever any vehicle is found parked in any place within the city where parking
186 is not permitted at that time, or whenever any vehicle is found parked in violation
187 of the terms of this chapter or any other ordinance relating to traffic, such vehicle
188 may be removed and conveyed by the police department to a vehicle pound.
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Sec. 17-63. - Report of impoundment.

It shall be the duty of the person impounding a vehicle pursuant to this division immediately to report the fact of this impounding, together with any other information which will definitely identify the vehicle, to the police department, which shall cause a permanent record to be made thereof.

Sec. 17-64. - Pound records; disposition of fees collected.

It shall be the duty of the police department to keep a permanent record of all vehicles committed to the pound, the names and addresses of the owners of the vehicles, the number of the state license tags and the nature and circumstances of each violation, as well as the disposition of each case, and to account for all fees collected under this division and pay them to the finance director or clerk of the recorder's court, taking a receipt therefor.

Sec. 17-65. - Fees.

A fee to cover the cost of removal, plus a storage fee for each day or fraction of a day the impounded vehicle is stored in excess of the first twenty-four (24) hours the vehicle is impounded under this division, shall be assessed against the owner or other person having the right to the possession of the impounded vehicle. The specific amounts of such fees shall be established by action of the mayor and council, a copy of which is on file in the office of the clerk of the City of Stonecrest.

Sec. 17-66. - Release of impounded vehicle—generally.

Any person claiming a vehicle impounded under this division shall produce evidence of identity and ownership or right of possession to the person in charge of the pound in order for the pound to discharge the vehicle and to deliver it to the person. Thereupon, the impounded vehicle may be surrendered by the person in charge thereof, except where the impounded vehicle is retained as evidence or

220 incidental to a search for evidence. Impounded vehicles retained as evidence or
221 incidental to a search for evidence cannot be released without prior permission of
222 the law enforcement agency. A receipt shall be obtained for all impounded
223 vehicles upon their surrender. Such receipt shall definitely identify the vehicle and
224 shall become a permanent record of the city. These fees shall be paid to the person
225 in charge of the pound and a receipt shall be written.

226

227 **Sec. 17-67. - Same—Protest and bond.**

228 In case protest is made against the payment of any impounding or storage fees,
229 the police department may authorize the person in charge of the impounded
230 vehicle to discharge it upon the following terms and conditions:

231

- 232 1) Such person shall be charged with violation of this chapter or other traffic
233 ordinance and required to make bond for appearance and trial.
- 234 2) Thereupon, the police department shall authorize the person in charge of the
235 impounded vehicle to deliver it to such person.
- 236 3) If such person is convicted of violating this chapter or any other traffic
237 ordinance, in addition to other costs, the court shall assess as cost the fees for
238 removal and storage which have accumulated in connection with the
239 impounding of the vehicle.

240

241 **Sec. 17-68. - Impoundment does not preclude other prosecution.**

242 The impounding of a vehicle shall not prevent or preclude prosecution for
243 violations of the penal provisions of this chapter or any other ordinance relating to
244 traffic.

245

246 **Secs. 17-69—17-85. - Reserved.**

247

248 **ARTICLE III. - VEHICLE OPERATION.**

249

250 **DIVISION 1. – GENERALLY.**

251 **Sec. 17-86. - Slowly moving or heavily laden vehicles.**

252 Slowly moving or heavily laden vehicles shall not be driven upon the streets or
253 highways abreast, but one must follow behind the other and keep as near the
254 right-hand curb as possible.
255

256 **Sec. 17-87. - Vehicles propelled by human or animal power prohibited on**
257 **limited-access highways.**

258 It shall be unlawful for any person to push or drive any vehicle upon the limited-
259 access highways of the city which is propelled by human or animal power,
260 including any bicycle, tricycle, pushcart, animal-drawn vehicle of any kind and
261 any vehicle incapable of a speed of at least forty-five (45) miles per hour.
262

263 **Sec. 17-88. - Manner of driving in procession.**

264 Each driver in a funeral or other procession shall drive as near to the right-hand
265 edge of the street or roadway as practicable and shall follow the vehicle ahead as
266 close as is practicable and safe.
267

268 **Sec. 17-89. - Leaving street or highway at other than intersection or**
269 **driveway.**

270 No driver of any vehicle shall operate it in such a manner so as to enter or leave
271 any street or highway except at an intersection or at an alley or private drive.
272

273 **Sec. 17-90. - Sanitation vehicles.**

274 All employees and vehicles of the city, when engaged or used in performance of
275 sanitation or solid waste collection and disposal service, shall have the right-of-
276 way in the use of the streets, and may use any part thereof in cleaning up and
277 washing streets.
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Sec. 17-91. - Identification, right-of-way of vehicles in funeral procession.

- (a) Vehicles of a funeral procession shall have the right-of-way over all vehicles, except authorized emergency vehicles; provided that each vehicle shall identify itself by burning regular headlights, shall keep in close formation and shall display a windshield sticker carrying the word "funeral." The identifying windshield sticker on vehicles shall be at least twelve (12) inches long and three (3) inches high, with dark letters at least one and one-half (1½) inches high on a white background.
- (b) When the lead vehicle in a funeral procession has entered an intersection on a green light, all other cars in the procession may proceed through the intersection, even though the signal may change to red.

Sec. 17-92. - Driving through processions.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when these vehicles are conspicuously designated as required in section 17-91.

Sec. 17-93. - Limitations on turning around.

The driver of any vehicle shall not turn that vehicle so as to proceed in the opposite direction upon any street in a business district, or upon any street between intersections. These turns may be made outside of a business district at intersections not controlled by a traffic signal.

Sec. 17-94. - Truck routes.

- (a) All motor vehicles having a gross vehicle weight rating in excess of thirty-six thousand (36,000) pounds, or having an overall length in excess of thirty (30) feet, except vehicles designed to carry passengers, are prohibited from using any street within the city except those authorized by ordinance and designated as truck routes. When the terminal, parking lot, repair garage or headquarters

310 of the restricted motor vehicle is not on a designated truck route, ingress to
311 and egress from such places shall be made by the most direct route available
312 between the terminal, parking lot, repair garage or headquarters and nearest
313 designated truck route.

314 (b) Any person driving or in charge or control of any of the restricted vehicles
315 defined in subsection (a) of this section, when upon streets other than those
316 designated as truck routes, shall be prepared to present for the inspection of
317 police officers a log book, weight slips, delivery slips and other written
318 evidence of such person's destination and point of origin to justify the
319 presence of the restricted vehicle on a street other than a designated truck
320 route.

321 (c) If any designated truck route or portion thereof shall be under repair or
322 otherwise temporarily out of use, restricted vehicles as defined in subsection
323 (a) of this section shall use such other temporary truck route as may be
324 designated by the city.

325 (d) The routes designated as truck routes are as listed in section 17-361.

326 **Sec. 17-95. - Tractors, semitrailers, trailer combinations.**

327 Tractors, semitrailers and trailer combinations shall not be operated upon any
328 road, thoroughfare, street or alley maintained by the city, except when authorized
329 by the police department. With authorization, vehicles may be operated on
330 commercial or industrial roads, thoroughfares or streets for the distance approved
331 by the city. Such distance shall not exceed one (1) mile from the interstate exit
332 ramp. Any such authorization shall be made for a specific designated route and
333 shall begin at the exit point from the interstate as approved by the state
334 department of transportation.
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337 **Secs. 17-96—17-110. - Reserved.**

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339 **DIVISION 2. – SPEED.**

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Sec. 17-111. - Generally; zones designated.

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(a) Except as otherwise specifically provided by ordinance, the interstate highways and higher speed main arterial highways shall be designated as zone number 1, reduced speed interstate highways as zone number 2A and typical main arterial highways as zone number 2B, the through roads and streets as zone numbers 3, 4, 5 and 6, and higher residential streets, road, alleys on residential streets as zone number 7. Such zones are as designated in sections 17-352 through 17-357.

(b) On all highways which comprise a part of the national system of interstate and defense highways and having not less than four (4) traffic lanes, or zone 1, the minimum speed shall be forty (40) miles per hour and the maximum speed shall be sixty-five (65) miles per hour.

(c) On all highways which comprise a part of the national system of interstate and defense highways and having not less than four (4) traffic lanes, where the total gross combined weight of trucks or truck-tractors and trailers and load in pounds is less than ten thousand (10,000) pounds, the maximum speed shall not exceed fifty-five (55) miles per hour; where the total gross combined weight of trucks or truck-tractors and trailers and load in pounds is between ten thousand (10,000) and sixteen thousand (16,000) pounds, the maximum speed shall not exceed fifty (50) miles per hour; where the total gross combined weight of trucks or truck-tractors and trailers and load exceeds sixteen thousand (16,000) pounds, the maximum speed shall not exceed forty-five (45) miles per hour. This subsection shall not apply to buses; provided, however, that no school bus while transporting schoolchildren shall exceed a speed of forty (40) miles per hour; provided, however, that buses owned or operated by a street railroad or other company engaged in the operation of an urban transit system which are used for the transportation of schoolchildren may be operated at speeds in excess of forty (40) miles per hour provided

- 369 these speeds are within the maximum speed limits of the municipalities in
370 which these buses are operated.
- 371 (d) It shall be unlawful for any person to drive within or upon the main arterial
372 highways designated as zone number 2 at a rate of speed in excess of fifty-five
373 (55) miles per hour, from one-half hour before sunrise until one-half hour
374 after sunset; at other times fifty (50) miles per hour.
- 375 (e) In zone number 2, where the total gross combined weight of trucks or truck-
376 tractors and trailers and load in pounds is less than ten thousand (10,000)
377 pounds, the maximum speed shall not exceed fifty-five (55) miles per hour;
378 where the total gross combined weight of trucks or truck-tractors and trailers
379 and load in pounds is between ten thousand (10,000) and sixteen thousand
380 (16,000) pounds, the maximum speed shall not exceed fifty (50) miles per
381 hour; where the total gross combined weight of trucks or truck-tractors and
382 trailers and load exceeds sixteen thousand (16,000) pounds, the maximum
383 speed shall not exceed forty-five (45) miles per hour. This shall not apply to
384 buses; provided, that no school bus while transporting schoolchildren shall
385 exceed a speed of forty (40) miles per hour.
- 386 (f) It shall be unlawful for any person to drive within or upon the streets, roads
387 and alleys designated as zone number 3 at a rate of speed in excess of fifty
388 (50) miles per hour, unless a higher rate of speed has been specifically
389 authorized for that particular street by this chapter or an appropriate
390 ordinance.
- 391 (g) It shall be unlawful for any person to drive within or upon the streets, roads
392 and alleys designated as zone number 4 at a rate of speed in the excess of
393 forty-five (45) miles per hour, unless a higher rate of speed has been
394 specifically authorized for that particular street by this chapter or an
395 appropriate ordinance.
- 396 (h) It shall be unlawful for any person to drive within or upon the streets, roads
397 and alleys designated as zone number 5 at a rate of speed in excess of forty
398 (40) miles per hour, unless a higher rate of speed has been specifically

399 authorized for that particular street by this chapter or an appropriate
400 ordinance.

401 (i) It shall be unlawful for any person to drive within or upon the streets, roads
402 and alleys designated in this section as zone number 6 at a rate of speed in
403 excess of thirty-five (35) miles per hour, unless a higher rate of speed has
404 been specifically authorized for that particular street by this chapter or an
405 appropriate ordinance.

406 (j) It shall be unlawful for any person to drive within or upon the streets, roads
407 and alleys designated in section 17-357 as zone number 7 at a rate of speed in
408 the excess of thirty (30) miles per hour, unless a higher rate of speed has been
409 specifically authorized for that particular street by this chapter or an
410 appropriate ordinance.

411 (k) On the remaining streets, roads and alleys of the city not included in zone
412 numbers 1 through 7, it shall be unlawful for any person to drive a motor
413 vehicle in excess of twenty-five (25) miles per hour, unless a higher rate of
414 speed has been specifically authorized for the particular street, road or alley
415 by this chapter or an appropriate ordinance.

416
417 **Sec. 17-112. - Regulation by traffic signs.**

418 The public works department may regulate the timing of traffic signals so as to
419 permit the movement of traffic in an orderly and safe manner at speeds slightly at
420 variance from the speeds otherwise applicable within the district or at
421 intersections and shall erect appropriate signs giving notice thereof.

422
423 **Sec. 17-113. - Maximum speed in parks.**

424 No person shall drive a motor vehicle in parks in excess of twenty (20) miles per
425 hour.

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Sec. 17-114. - Minimum speeds on streets and highways.

It shall be unlawful for any person to operate any vehicle within the left-hand lane on any expressway within the city at a speed of less than forty (40) miles per hour. This section shall not apply to portions of the expressway system known as connectors or bypasses.

Sec. 17-115. - School crossing zones.

No person shall drive a vehicle in excess of twenty-five (25) miles per hour on any street where flashing yellow traffic beacons and twenty-five-mile-per-hour speed signs are installed and operating or where standard school or school crossing signs and twenty-five-mile-per-hour speed signs are installed, thereby designating the area as a school speed zone. The reduced speed limit shall be in effect only on days and hours when the school is in operation.

DIVISION 3. - TRAFFIC-CALMING MEASURES.

Sec. 17-116. - Definitions.

For purposes of this article, certain terms and words are defined. Where words have not been defined, but are defined in a subsequent sub-section of this article, those words shall have the meaning as defined therein. The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“AASHTO” means the American Association of State Highway and Transportation Officials.

“Affected area” means a geographic portion of a neighborhood consisting of all property owners whose quality of life as a resident in the neighborhood, and not necessarily as a traveler through the neighborhood,

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is being directly impacted by the cut-through or speeding traffic problem being addressed. The affected area will include all lots from which residents must traverse the traffic calming measure. The affected area will also include all lots from which residents may have an alternate route without traffic calming measures but whose lots have driveways that access the residential street for which traffic calming measures are sought.

“Department” means the public works department.

“Eligible petitioner” means the person whose name is recorded as a property owner in the tax records maintained by the city's tax commissioner and board of tax assessors for the address listed on the petition that falls within the affected area.

“Initiator” is a real property owner who has requested an initial interest petition form and/or has assumed a primary role in circulating the initial interest petition and the subsequent traffic-calming petition and undertakes to serve as the city's sole contact with respect to the progress of the initial interest petition and any subsequent traffic study and traffic-calming petition.

“I. T. E.” means the Institute of Transportation Engineers.

“MUTCD” means the Manual on Uniform Traffic Control Devices.

“Real property owners” means homeowners or other real property owners as indicated in the tax records maintained by the city's tax commissioner and board of tax assessors.

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“Reference number” means the number assigned to a completed initial interest petition which meets the city's criteria for a study that will be used to determine the order in which traffic studies will be conducted.

“Residential street” means a street classified and defined as "residential" in the records of the City of Stonecrest Planning Department.

“Traffic-calming measures” means those methods and processes, prescribed by "AASHTO" or other nationally recognized organizations, that the city may use to reduce aggressive driving behavior that impairs the quality of life of its citizens in any neighborhood in which the posted speed limit is no greater than thirty (30) miles per hour. Such measures include, but are not limited to, speed humps, bicycle lanes, center traffic islands, splitter islands, and striping and turn restriction lanes.

“Traffic-calming program guidelines” means the guidelines for the design and application of speed humps and alternative traffic-calming measures adopted by the city with the traffic-calming program in May 1995 and revised thereafter in March 2001.

“Traffic study” means the process by which data pertinent to the flow, rate of speed and density of traffic, collected over a defined period of time, is measured and analyzed to determine its impact on the safety of citizens within a neighborhood or affected area.

Sec. 17-117. - Application.

The provisions of this division shall govern in the event that there is any conflict between the provisions of this division and the provisions in the Speed Humps and Alternative Traffic-Calming Measures Program adopted by the city in 1995 and amended thereafter, as well as the Guidelines for the Design and Application

518 of Speed Humps and Alternative Traffic-Calming Measures Manual adopted by
519 the city in 1995 and amended thereafter, collectively referred to herein as the
520 traffic-calming program. All initial interest petitions and traffic studies pending as
521 of the effective date of the ordinance adopting this division shall be required to
522 comply with and shall be subject to the provisions of this division.

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Sec. 17-118. - Reserved.

525

Sec. 17-119. - Procedure for requesting a traffic study.

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(a) The city shall require the filing of the initial interest petition on a form
527 promulgated by the department director or designee.

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(b) Any person(s) interested in pursuing the installation of traffic-calming
530 measures on a residential street, upon request to the department, will be
531 provided with an initial interest petition for the department to perform a traffic
532 study. The initial interest petition must be marked with the date on which it is
533 required to be returned to the department, hereinafter referred to as the return
534 date. Such return date shall be forty-five (45) days after the date the
535 department issues the initial interest petition. The initial interest petition will
536 allow for persons to sign in favor of requesting a traffic study or to register
537 their opposition to the conduct of a traffic study.

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(c) All persons signing an initial interest petition to request that the department
540 carry out a traffic study shall hereinafter be referred to as applicants. All
541 persons opposed shall hereinafter be referred to as opponents.

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Sec. 17-120. - Initial interest petition.

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(a) The department will not consider an initial interest petition unless it is
546 complete, as that term is defined herein, and unless at least twenty (20)

547 percent of the real property owners or rental occupants on the residential street
548 are in favor of the traffic study.

549 (b) The completed initial interest petition shall be filed with the department by the
550 return date as provided for in section 17-119(b) or it shall be deemed
551 abandoned and any further action by the city will require a new initial interest
552 petition.

553 (c) In order to be considered complete, the initial interest petition shall include all
554 of the following:

555 1) The full name, signature, home address, and daytime telephone
556 number of each person that signed the initial interest petition.

557 2) The date upon which each person signed the initial interest petition.

558 3) A description of the precise area for which the traffic study is
559 requested by reference to the name of the subdivision or popular name
560 of the neighborhood, or the bridges, streets, roads and where
561 appropriate with house numbers that identify the area where a
562 perceived speeding or cut-through problem exists.

563 4) The name, address and telephone number of an initiator.

564 (d) Only one (1) real property owner or renter for each street address may sign the
565 initial interest petition.

566 **Sec. 17-121. - Evaluating the initial interest petition and informing the**
567 **initiator.**

568 (a) Upon receipt of a completed initial interest petition, the department will make
569 a determination as to whether at least twenty (20) percent of the real property
570 owners or rental occupants on the residential street are in favor of the traffic
571 study.

572 (b) After the department has received the complete initial interest petition, no
573 signature will be withdrawn from an initial interest petition unless the
574 department is notified in writing within thirty (30) days, that there is
575

576 reasonable proof that fraud or other impropriety occurred regarding the
577 obtaining of the petitioner's signature.

578 (c) Within sixty (60) days, the initiator of the initial interest petition will be
579 notified in writing by the department as to whether the initial interest petition
580 meets the criteria for a traffic study. In the event that the department decides
581 to conduct a traffic study, the written notification to the initiator will include a
582 reference number assigned to the initial interest petition for the conduct of the
583 study.

584 (d) In the event that the initiator moves away or is otherwise no longer a point of
585 contact for the department and a new initiator's name or address has not been
586 provided to the department, the department shall consider the initial interest
587 petition abandoned and shall cease all work on processing of the initial
588 interest petition and any subsequent traffic study.

589
590 **Sec. 17-122. - Traffic study to comply with national standards.**

591 National standards promulgated by the American Association of State Highway
592 and Transportation Officials, the Institute of Transportation and other national
593 standards shall govern the execution of traffic studies and the design and
594 installation of traffic-calming measures.

595
596 **Sec. 17-123. - Priority for the conduct of traffic studies.**

597 (a) The department will conduct traffic studies based on the reference number
598 assigned to the completed initial interest petition.

599 (b) The department reserves the right to change the order in which a traffic study
600 is conducted where the department determines that there is an initial interest
601 petition further down the waiting list for an area that may relate to, or be
602 affected by, another traffic study to be conducted on a neighboring street or in
603 a neighboring area.

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606 **Sec. 17-124. - The affected area and the traffic-calming plan.**

- 607 (a) Where a traffic study is warranted it will be conducted at a time to be
608 determined by, and within the sole discretion of, the department.
609 (b) Upon completion of a traffic study, the department shall make a determination
610 as to whether the results clearly demonstrate that the installation of traffic-
611 calming measures are warranted based upon the criteria established in the
612 traffic-calming program guidelines.
613 (c) When considering traffic-calming program guidelines relating to speeding, the
614 determination regarding whether the established criteria for traffic-calming
615 measures have been met will be based on a comparison of actual study speeds
616 obtained to the posted speed limit. When considering the criteria in traffic-
617 calming program guidelines that relate to cut-through, the determination will
618 include a comparison of cut-through traffic volumes obtained in a study to
619 allowable volumes of cut-through traffic established in those guidelines.

620 **Sec. 17-125. - Notification that traffic-calming measures are not warranted.**

621 Following the completion of the study, if the department director or designee
622 determines that no traffic-calming measures are warranted, then the department
623 director or designee shall notify the initiator of that conclusion in writing.
624

625 **Sec. 17-126. - Notification to initiator for commencement of traffic-calming
626 conceptual design and presentation of the traffic-calming plan for public
627 hearing.**

- 628 (a) Where traffic-calming measures are warranted the department shall, within a
629 reasonable time following the completion of the traffic study, not to exceed
630 twelve (12) months, prepare a traffic-calming conceptual plan and notify the
631 initiator in writing about the traffic-calming conceptual plan.
632 (b) The traffic-calming conceptual plan must identify the affected area and
633 include a recommendation for a specific traffic-calming measure or a
634 combination of such measures that the department has determined to provide
635

- 636 the most effective solution to the speeding and/or cut-through problems
637 identified in the traffic study for installation in the affected area, having regard
638 to the pavement width, grades, the physical features of the proposed location
639 for the installation measures and any structures that facilitate drainage. The
640 plan may also include alternative measures that could be installed to provide
641 some relief to the speeding and/or cut-through problems identified in the
642 traffic study for installation in the affected area, having regard to the
643 pavement width, grades, the physical features of the proposed location for the
644 installation measures and any structures that facilitate drainage.
- 645 (c) A public comment period, not to exceed twelve (12) months, shall commence
646 on the date that the letter of notification is sent to the initiator pursuant to
647 subsection (a). During that public comment period, department staff assigned
648 to work on the traffic-calming conceptual plan shall meet with the initiator(s)
649 and other interested persons for neighborhood input and public comment on
650 the traffic-calming conceptual plan.
- 651 (d) The department shall, within 60 days of the completion of the public comment
652 period present the traffic-calming conceptual plan to the mayor and council
653 for a public hearing at a regularly scheduled meeting, of the board of
654 commissioners.
- 655 (e) The date, time, place and purpose of the public hearing must be advertised in
656 the city's legal organ at least once within three (3) weeks prior to the hearing.
657 The department shall also post signs within the affected area informing
658 residents of the date, time and place of the public hearing and its purpose.
- 659 (f) The mayor and council may vote to accept or reject the department's
660 recommendation for installation of the most effective traffic-calming
661 measures, or to accept any alternative measures provided by the department.
662 Additionally, the mayor and council may vote to defer the item for up to sixty
663 (60) days for additional review by staff with respect to the traffic-calming
664 measures recommended and the affected area to which the proposed measures
665 would apply.

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Sec. 17-127. - Traffic-calming petition; choice of measures.

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Sec. 17-128. - Creation of a special tax district and assessment of costs associated with the maintenance of the traffic-calming measure.

- 695 (a) In order to be eligible for the creation of special tax district the petition must
696 secure signatures in favor of the installation of traffic-calming measures from
697 eligible petitioners representing sixty-five (65) percent of properties in the
698 affected area.
- 699 (b) In the event that the petition secures the requisite percentage of signatures in
700 favor of the approved traffic-calming measure or combination of traffic
701 calming measures, the director of the department shall present a resolution to
702 the mayor and council at a regularly scheduled meeting and the mayor and
703 council shall thereafter by said resolution approve the creation of a special tax
704 district. Advertising for said meeting must comply with section 17-126(e).
- 705 (c) The special tax district shall be created to include all of real property in the
706 affected area for which the traffic-calming measure was approved. An annual
707 maintenance charge in an amount to be determined by the mayor and council
708 shall be assessed to and collected from property owners within the affected
709 area as part of their annual property tax assessment for the maintenance of the
710 traffic-calming measures installed pursuant to the creation of the special tax
711 district.

712
713 **Sec. 17-129. - Removal of traffic-calming measures.**

- 714 (a) Upon presentation of a petition from eligible petitioners representing sixty-
715 five (65) percent of the properties in the affected area, traffic-calming
716 measures previously installed may be removed. No such petition shall be
717 presented earlier than twelve (12) months after initial installation of the
718 traffic-calming measure(s).
- 719 (b) A removal petition may be obtained from the department director or the
720 director's designee.
- 721 (c) The removal petition shall be returned and filed with the department within
722 ninety (90) days of the date on which it was provided pursuant to a request or
723 it shall be deemed abandoned and any further action by the city shall require a
724 new removal petition.

725 (d) The removal petition shall be presented to the mayor and council at a public
726 hearing within sixty (60) days of the receipt of the petition. The date, time,
727 place and purpose of the public hearing must be advertised in the city's legal
728 organ at least once within three (3) weeks of the hearing. The department shall
729 also post signs within the affected area informing residents of the date, time
730 and place of the public hearing and its purpose.

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Sec. 17-130. - Reserved.

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ARTICLE IV. - STOPPING, STANDING AND PARKING.

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DIVISION 1. - GENERALLY.

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Sec. 17-131. - Signs required for enforcement.

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Sec. 17-132. - Emergency parking restrictions.

When not inconsistent with this chapter or any other ordinance, the chief of police has authority in an emergency to prohibit the parking or stopping of vehicles on any street or portion of a street or to close a street to traffic. All these orders shall be temporary only.

755 **Sec. 17-133. - Authority to prohibit parking on certain streets.**
756 When not inconsistent with this chapter or any other ordinance, the chief of police
757 may prohibit parking or stopping of vehicles on any street or portion of a street
758 when traffic and engineering surveys indicate that stopping or parking may
759 impede the free flow of traffic on the street.

760 **Sec. 17-134. - Loading and unloading at angle to curb; permit.**
761 The chief of police may issue special permits to permit the backing of a vehicle to
762 the curb for the purpose of loading or unloading merchandise or materials subject
763 to the terms or conditions of these permits. Such permits may be issued either to
764 the owner or lessee of real property or to the owner of the vehicle, and shall grant
765 to that person the privilege as therein stated in this section. It shall be unlawful for
766 any permittee or other person to violate any of the special terms or conditions of
767 the permit.
768

769 **Sec. 17-135. - Leaving vehicle unattended; setting brakes, stopping motor.**
770 No person having control or charge of a motor vehicle shall allow such vehicle to
771 stand on any street unattended without first setting the brakes thereon and
772 stopping the motor of the vehicle and, when standing upon a perceptible grade,
773 without turning the wheels of this vehicle to the curb or the side of the street or
774 highway.
775

776 **Sec. 17-136. - Parking prohibited in certain places.**
777 (a) No person shall stop, stand or park a vehicle, except when necessary to avoid
778 conflict with other traffic or in compliance with law or the direction of a
779 police officer or traffic-control device, at any place prohibited by ordinance
780 and indicated by official signs or markings.
781 (b) No person shall move a vehicle, not lawfully under such person's control,
782 either into any prohibited area or move and leave such vehicle away from a
783 curb such distance as is prohibited by this chapter or other ordinance.
784

785 (c) At the locations listed in section 17-362, as indicated by official signs or
786 markings, parking is prohibited as indicated.

787

Sec. 17-137. - Parking not to obstruct traffic.

788 No person shall park any vehicle upon a street in such manner or under such
789 conditions as to leave available less than ten (10) feet of the width of the roadway
790 for free movement of vehicular traffic.

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792

Sec. 17-138. - Parking for certain purposes prohibited.

793

No person shall park a vehicle upon any roadway for:

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1) Displaying the vehicle for sale.

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2) Washing, greasing or repairing the vehicle, except repairs necessitated by
797 sudden emergency; in such emergency the vehicle shall be moved or towed
798 away with all due haste.

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Sec. 17-139. - Parking adjacent to schools.

801

(a) The public works department may erect signs indicating no parking upon that
802 side of any street adjacent to any school property when such parking would
803 interfere with traffic or create a hazardous situation.

804

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(b) When official signs are erected indicating no parking upon that side of a street
806 adjacent to any school property, no person shall park a vehicle in such
807 designated place.

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Sec. 17-140. - Parking on narrow streets.

810

(a) The public works department may erect signs indicating no parking upon any
811 street when the width of the roadway does not exceed twenty (20) feet, or
812 upon one (1) side of a street as indicated by signs when the width of the
813 roadway does not exceed thirty (30) feet.

814 (b) When official signs prohibiting parking are erected upon narrow streets as
815 authorized in section 17-363, no person shall park a vehicle upon the streets
816 listed in section 17-363 in violation of the sign.

817
818 **Sec. 17-141. - Parking on one-way streets.**

819 The public works department may erect signs upon the left-hand side of any one-
820 way street to prohibit the standing or parking of vehicles. When these signs are in
821 place, no person shall stand or park a vehicle upon such left-hand side.

822
823 **Sec. 17-142. - Parking on one-way roadways.**

824 If a highway includes two (2) or more separate roadways and traffic is restricted
825 to one (1) direction upon such roadway, no person shall stand or park a vehicle
826 upon the left-hand side of such one-way roadway, unless signs are erected to
827 permit such standing or parking. The public works department may determine
828 when standing or parking may be permitted upon the left-hand side of the one-
829 way roadway and erect signs giving notice thereof.

830
831 **Sec. 17-143. - Hazardous or congested places.**

832 (a) The public works department may determine and designate by proper signs,
833 places not exceeding one hundred (100) feet in length in which the stopping,
834 standing or parking of vehicles would create an especially hazardous
835 condition or would cause unusual delay to traffic.

836 (b) When official signs are erected at hazardous or congested places as authorized
837 herein, no person shall stop, stand or park a vehicle in such designated place.

838
839 **Sec. 17-144. - Designation of curb loading zones.**

840 The public works department may determine the location of passenger and freight
841 curb loading zones and shall place and maintain appropriate signs indicating them
842 and stating the hours during which the provisions of this section are applicable.

843

844 **Sec. 17-145. - Freight curbs loading zones.**

845 (a) No person shall stop, stand or park a truck for any purpose or length of time
846 other than for the expeditious unloading and delivery or pickup and loading of
847 materials in any place marked as a freight curb loading zone during hours
848 when the provisions applicable to these zones are in effect, nor stop, stand or
849 park any other vehicle for the unloading or loading of materials.

850 (b) The driver of a passenger vehicle may stop temporarily at a place marked as a
851 freight curb loading zone for the purpose of and while actually engaged in
852 loading and unloading passengers when such stopping does not interfere with
853 any motor vehicle used for the transportation of materials which is waiting to
854 enter or about to enter the zone.

855
856 **Sec. 17-146. - Parking of taxicabs and buses regulated.**

857 The driver of a bus or taxicab shall not park upon any street in any business
858 district at any place other than at a bus stop, or taxicab stand, respectively, except
859 that this provision shall not prevent the driver of such vehicle from temporarily
860 stopping in accordance with other stopping or parking regulations at any place for
861 the purpose of and while actually engaged in loading and unloading passengers,
862 and except for making emergency repairs. The provisions of this section shall not
863 apply to common carriers stopping at regular designated passing or layover
864 locations.

865
866 **Sec. 17-147. - Use of bus and taxicab stands restricted.**

867 No person shall stop, stand or park a vehicle other than a bus in a bus stop, or
868 other than a taxicab in a taxicab stand, when such stop or stand has been officially
869 designated and appropriately signed, except that the driver of a passenger vehicle
870 may temporarily stop therein for the purpose of and while actually engaged in
871 loading or unloading passengers when such stopping does not interfere with any
872 bus or taxicab waiting to enter or about to enter the zone.

873

874 **Sec. 17-148. - Bus stops.**

875 (a) A no parking zone of eighty (80) feet shall be created at all bus stops for the
876 purpose of loading and unloading passengers.

877 (b) These no parking zones shall be marked by signs and, in addition, these zones
878 in all congested areas shall have the curbs painted yellow. This proper
879 marking of zones shall be maintained by the companies operating buses in and
880 out of these zones.

881 (c) Buses or any vehicles parked in these zones for the purpose of loading and
882 unloading passengers shall pull as close to the curb as possible.

883 (d) This section does not prohibit buses from loading and unloading at platforms
884 at loading zones where they are provided for that purpose in the street.

885 **Sec. 17-149. - Restrictions on parking heavy or oversize vehicles, campers,**
886 **boats, etc., on residential streets.**

887 (a) No person shall park or stand any bus, truck or other freight- or passenger-
888 carrying vehicle in excess of one-half-ton capacity upon any public street or
889 highway for a period longer than one (1) hour at any time during the day or
890 night.

891 (b) No person shall stop or stand any truck or bus with a body more than eight (8)
892 feet (or 2.4384 m.) wide or ten (10) feet (or 3.048 m.) high on any street or
893 public place without the driver or chauffeur being actually present and in
894 charge thereof.

895 (c) No person shall park or stand any truck camper, camper trailer, motor home,
896 boat, boat trailer or other recreational vehicle on any residential street or
897 public place for more than one (1) hour at any time during the day or night.
898

899 **Sec. 17-150. - Fire zones.**

900 The chief of police may designate any area on public property or private property
901 used for public purposes as restricted areas to be known as fire zones. Standing or
902 parking a vehicle in a fire zone shall be a violation of this section and the city may
903

904 enforce this section by the issuance of a citation and the immediate removal of the
905 vehicle to an impound lot.

906
907 **Sec. 17-151. - Use of parking facilities on city property.**

908 Parking facilities on city property designated for this use by the city manager shall
909 be used only in accordance with regulations for this use established by the city
910 manager. The city manager may designate certain spaces or areas as reserved for
911 all elected officials, designated administrative officials whose position
912 responsibilities require the provision of a reserved parking space for efficiently
913 discharging those responsibilities and for other general purposes such as court and
914 visitor parking. Occupancy of these reserved spaces or areas by other than those
915 individuals assigned to use the spaces or areas shall be deemed a violation of this
916 section. The public works department shall be responsible for posting of signs to
917 ensure effective notice to parking facility users as to the regulations governing
918 and limitations on the use thereof. It shall be unlawful to park any private vehicle
919 in any city parking facility for a period of more than twelve (12) hours in any one
920 (1) day or to park a commercial or freight-carrying vehicle or trailer in these lots
921 except by written permission of the chief executive.

922
923 **Sec. 17-152. - Parking prohibited during certain hours.**

924 (a) When prohibited by this chapter or any other ordinance or by order of the city,
925 no person shall park a vehicle during the hours prohibited at places so
926 indicated by official signs.

927 (b) When so indicated as provided in subsection (a) of this section, parking is
928 prohibited on the streets or portions thereof listed in section 17-362.

929
930 **DIVISION 2. - RESIDENTIAL PERMIT PARKING.**

931
932
933

934 **Sec. 17-153. - Definitions.**

935 The following words, terms and phrases, when used in this division, shall have the
936 meanings ascribed to them in this section, except when the context clearly
937 indicates a different meaning:

938
939 “Block face” means that portion of one side of a street located between an
940 intersecting street and the next occurring side street or between the
941 termination of a street and the first occurring side street.

942
943 “Commuter vehicle” means a motor vehicle, parked in a residential area,
944 which is not registered to or operated by a resident of such area.

945
946 “Curb parking space” means a twenty-four-foot-long section of street,
947 adjacent to the curb or edge or roadway, where a motor vehicle may
948 lawfully park.

949
950 “Director” means the associate director of public works, transportation
951 division.

952
953 “Residential area” means a contiguous or nearly contiguous area
954 containing public roadways which are primarily abutted by residential
955 property and nonbusiness property, such as parks, churches and schools.

956
957 “Street address” means the lot number assigned to a lot of record as shown
958 on the official tax maps of the city.

959
960 **Sec. 17-154. - Program established.**

961 There is established a residential permit parking program whereby motor vehicles
962 bearing a special parking permit issued pursuant to this division may be parked in

963 excess of the time limits posted on streets within certain areas known as
964 residential permit parking areas.

965
966 **Sec. 17-155. - Penalties for violations.**

967 (a) It shall be unlawful and a violation of this division for a person to furnish false
968 information in an application for any permit authorized by this division or to
969 represent falsely that such person is eligible for such permit.

970 (b) A person holding a valid parking permit issued pursuant to this division shall
971 not allow the use or display of such permit on a vehicle other than that for
972 which the permit was issued. Such conduct shall be unlawful and a violation
973 of this division both by the person holding the valid permit and the person
974 who so uses or displays the permit improperly.

975 (c) It shall be unlawful and a violation of this division for a person to produce or
976 display a facsimile or counterfeit parking permit in order to evade time
977 limitations on parking in a residential permit parking area.

978 (d) Violation of this section shall constitute an offense and shall be punishable as
979 provided under section 1-10 of the City of Stonecrest Code.

980
981 **Sec. 17-156. - Petition required.**

982 (a) Residents of a residential area who desire to have such an area designated as a
983 residential permit parking area shall submit to the director a petition
984 requesting such designation. To warrant consideration, the request must be
985 supported by the signature of one (1) adult resident from sixty-five (65)
986 percent or more of the residences within the area, provided only one (1)
987 signature is needed for each street address. Apartment buildings and other
988 multiple-family dwellings shall be considered as one residence and shall be
989 limited to one (1) signature, which shall be the signature of the property owner
990 or the signature of a person who is legally authorized to sign on behalf of the
991 owner.

- 992 (b) The petition shall clearly define the boundaries of the proposed residential
993 permit parking area.
994 (c) The petition shall identify a resident petition coordinator and shall conform in
995 form and content with requirements established by the director.
996 (d) Upon receipt of a petition referred to in this section, the director shall
997 undertake evaluations and studies as needed to determine whether such
998 residential area is eligible for designation as a residential permit parking area.
999

1000 **Sec. 17-157. - Eligibility of area.**

- 1001 (a) In establishing the eligibility of a proposed residential permit parking area, the
1002 following factors shall be considered:
1003 1) The petition shall meet all of the requirements as stated in section 17-
1004 156.
1005 2) The residential area proposed for designation as a residential permit
1006 parking area shall contain no less than fifty (50) single-family street
1007 addresses or shall contain no less than four thousand (4,000) linear feet
1008 of street frontage, measured from the center of adjacent intersections.
1009 (b) Having determined that the requirements for a residential permit parking area
1010 are met, the director shall assign an appropriate and unique identification letter
1011 to the area and shall notify the petition coordinator that the area has been
1012 approved as a residential permit parking area.
1013

1014 **Sec. 17-158. - Application for permit.**

- 1015 (a) The application for a resident parking permit shall provide the name of the
1016 owner or operator of the motor vehicle to be permitted; the residential address;
1017 the operator's state driver's license number; the motor vehicle make, model
1018 and license number; and other information requested on the application form.
1019 The applicant shall provide proof of residency as required by the director.

1020 (b) Visitor permits shall require no written application except as provided in
1021 section 17-160(3); however, the director may require that previously issued
1022 and used permits be surrendered prior to placement.

1023

1024 **Sec. 17-159. - Permit terms; fees.**

1025 (a) All resident parking permits issued for a discrete residential permit parking
1026 area shall have a common expiration date. Full-term permits shall be valid for
1027 one year.

1028 (b) The permit fee shall be twelve dollars (\$12.00).

1029

1030 **Sec. 17-160. - Issuance of permits.**

1031 Following approval of a residential permit parking area, the director shall issue
1032 resident permits and visitor permits as follows:

1033

1034 (1) Each residential permit parking area shall have a unique permit expiration
1035 date. One (1) permit may be issued to the owner of a motor vehicle who
1036 resides on property fronting or at a residential street address on a block
1037 face located within the residential permit parking area, upon application,
1038 payment of the applicable fee, and approval by the director. Residential
1039 street addresses include apartments, condominiums, attached dwellings,
1040 row houses, town houses and the like.

1041 (2) Upon request, three (3) visitor permits may be issued without charge to the
1042 recipient of a resident permit, and such visitor permits may be renewed or
1043 replaced in accordance with procedures established by the director.
1044 Additional visitor permits may be issued, at a cost of fifteen dollars
1045 (\$15.00) per visitor permit. In no event, however, shall a motor vehicle
1046 owner who is eligible for a permanent parking permit receive more than
1047 seven (7) visitor permits (three (3) free permits, plus no more than four (4)
1048 additional permits) during any twelve-month period.

- 1049 (3) A resident of a residential permit parking area who is eligible for a
1050 resident permit but does not apply for such permit may be issued three (3)
1051 visitor permits by making application as provided in subsection (1) of this
1052 section and omitting information which is not applicable. No fee shall be
1053 charged for such visitor permits.

1054

1055 **Sec. 17-161. - Permit form and display.**

- 1056 (a) The resident parking permit shall be a decal and shall be affixed only to the
1057 motor vehicle for which it was issued. The decal shall be permanently
1058 attached to the inside lower corner of the rear window driver's side, and must
1059 be clearly visible from outside the vehicle. Information shown on the permit
1060 decal shall include but not be limited to the residential permit parking area
1061 identification letter, the permit number and the expiration date.
- 1062 (b) The visitor permit shall be a temporary permit designed for use by transient
1063 visitors and guests of residents of a residential permit parking area. Except as
1064 provided in subsection (c) of this section, each visitor permit shall be valid for
1065 the same period of time on the period given to owner of the motor vehicle
1066 who resides on property fronting or at a residential street address on a block
1067 face located within the residential permit parking area and shall provide all the
1068 rights and privileges of a resident permit. The visitor permit shall be of a form
1069 and shall be displayed as determined by the director.
- 1070 (c) The director may issue temporary permits, valid for not more than one (1)
1071 year, for a vehicle operated by persons who provides health care services or
1072 other essential services on a regular basis at an address within a residential
1073 permit parking area. Such temporary permit shall be a visitor permit bearing
1074 special validation and which is issued by the director upon satisfactory proof
1075 of need presented by the resident at such address. A temporary permit shall
1076 not be issued for use by a person who provides services for a commercial
1077 activity conducted at a residence.

1078 (d) A vehicle bearing a resident permit for one residential permit parking area
1079 may display a visitor permit for a different residential permit parking area
1080 when the vehicle is in a valid visitor status within the area identified on the
1081 visitor permit.

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Sec. 17-162. - Uniformity of parking regulations.

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Sec. 17-163. - Adding or removing block faces.

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- (a) All block faces of a discrete residential permit parking area shall have identical parking regulations where parking is allowed, and such regulations shall not be removed or modified on individual interior block faces.
- (b) The director may add or remove block faces along the boundaries of a residential permit parking area upon receipt of a petition in which more than sixty-five (65) percent of the residences request such action. The petition shall conform to section 17-156.
- (c) Eligibility for a block face to be added to or removed from a residential permit parking area shall be determined by the director, who shall, to the extent possible, avoid approving changes which will create an isolated block face, which is considered as one which: (1) Is not across the street from a residential permit parking area block face for its entire length; or (2) Neither end of the block face is connected to an existing residential permit parking area block face by a continuous curb or edge of roadway.
- (d) During the initial process of approving a residential permit parking area or as related to the addition or removal of block faces, the director may determine the appropriate status for any block face abutting a park or other property

1108 which has no street address or which has no resident qualified to sign a related
1109 petition.

1110

1111 **Sec. 17-164. - Termination of parking area.**

1112 Upon receipt of an appropriate petition signed by a representative of sixty-five
1113 (65) percent or more of the qualified street addresses, as identified in section 17-
1114 156(a), the city will terminate residential permit parking area subject to the
1115 following conditions:

- 1116 1) The parking regulations which will replace those installed as provided in
1117 section 17-154 must be determined on a block-by-block basis by consultations
1118 between the director and the affected residents prior to the termination of the
1119 residential permit parking area. The final determination shall be made by the
1120 director.
- 1121 2) The city shall not refund any fees which residents have paid for permits, as
1122 provided for in section 17-159, as a consequence of the termination of a
1123 residential permit parking area.
- 1124 3) Any street section which has been part of a residential permit parking area and
1125 which is terminated under this section shall be ineligible for inclusion in a
1126 future residential permit parking program for a period of twenty-four (24)
1127 months after such termination.

1128

1129 **Sec. 17-165. - Limitation on permit use.**

1130 A motor vehicle which displays a valid resident parking permit or visitor permit
1131 shall be allowed to stand or park in the residential permit parking area for which
1132 the permit has been issued without being limited by time restrictions. Such
1133 permits shall not authorize a motor vehicle to stand or park in any place where or
1134 during any time when the stopping, standing or parking of a motor vehicle is
1135 prohibited or the area is designated for other uses. A residential parking permit
1136 shall not guarantee or reserve the holder a parking space within a designated
1137 residential permit parking area.

1138

1139

Secs. 17-166—17-170. - Reserved.

1140

1141

ARTICLE V. – PEDESTRIANS.

1142

1143

Sec. 17-171. - Use of crosswalks.

1144

Pedestrians shall not cross any street or roadway in a business district or any designated streets or highways except in a crosswalk.

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Sec. 17-172. - Crossing at right angles.

1148

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a crosswalk.

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Secs. 17-173—17-190. - Reserved.

1153

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ARTICLE VI. – BICYCLES.

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1156

Sec. 17-191. - Method of parking.

1157

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at a curb, in such manner as to afford the least obstruction to pedestrian traffic.

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1161

Sec. 17-192. - Operation on roadways and paths.

1162

(a) The operator of a bicycle, upon entering a bicycle lane or path, shall yield the right-of-way to all bicycles approaching upon the lane or path and, upon entering the roadway, shall yield the right-of-way to all vehicles and bicycles in the roadway.

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(b) Any bicycle being operated on a public roadway shall yield to the right following an audible signal when overtaken by another vehicle. The driver of

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1168 a vehicle overtaking a bicycle proceeding in the same direction shall pass to
1169 the left thereof at a safe distance, and shall not again drive to the right side of
1170 the roadway until safely clear of the overtaken bicycle.

1171 (c) No person shall ride or operate a bicycle upon a roadway adjacent to which or
1172 upon which bicycle lanes have been designated, except within this bicycle
1173 lane or except as otherwise permitted by the provisions of this chapter. No
1174 person shall ride or operate a bicycle upon a roadway adjacent to which there
1175 is a bicycle path which is less than seventy-five (75) feet from the roadway
1176 and which is in a safe condition for bicycle riding.

1177 (d) When a roadway is determined to be unsafe for bicycling by the city, bicycle
1178 users may be restricted from the roadway by the erection of a sign prohibiting
1179 bicycle use and directing bicycle users to a suitable alternative route similar in
1180 directness and surface quality to the roadway.

1181

Sec. 17-193. - Turning movements.

1182 (a) When completing a left turn on two-way roadways, bicyclists shall merge to
1183 the portion of the roadway nearest the centerline thereof and shall negotiate
1184 the left turn so as to enter the intersecting roadway near the right side of the
1185 centerline, giving right-of-way to all vehicles proceeding through the
1186 intersection in the opposite direction.

1187 (b) When completing a right turn, motor vehicles shall yield the right-of-way to
1188 bicycles crossing the intersecting roadway or completing a right turn.

1189 (c) All vehicles or bicycles making turns at intersections shall not proceed into
1190 the intersection nor make this turn without first yielding the right-of-way to all
1191 bicycles or other vehicles within or approaching the intersection and shall
1192 proceed only when it is safe to do so.

1193 (d) A bicyclist may also negotiate a left turn by dismounting the bicycle and
1194 crossing as a pedestrian, leading the bicycle to the other side of the
1195 intersecting roadway, and hence to the other side of the traffic roadway. When
1196

1197 the person dismounts from a bicycle, such person shall then obey the
1198 regulations applicable to pedestrians.
1199 (e) When a bicycle "ride" control signal is shown, the bicyclist may proceed
1200 across the roadway in the direction of the signal and while so proceeding
1201 across the roadway has the right-of-way over other vehicles. When a bicycle
1202 "wait" control signal is shown: (1) The bicyclist facing the signal shall not
1203 commence to cross the roadway until bicycle ride control signal is shown. (2)
1204 A bicyclist proceeding across the roadway when a wait signal is shown after
1205 the bicyclist has entered the roadway shall quickly proceed across the
1206 roadway and has the right-of-way for that purpose over other vehicles.

1207
1208 **Sec. 17-194. - Acrobatic or fancy riding; racing.**

1209 No rider of any bicycle shall remove both hands from the handlebars, or feet from
1210 the pedals, or practice any acrobatic or fancy riding on any street. No person
1211 operating a bicycle upon a street shall participate in any race or speed or
1212 endurance contest with any other bicycle or vehicle, unless the street has been
1213 temporarily set aside for such purposes.

1214
1215 **Secs. 17-195—17-210. - Reserved.**

1216
1217 **ARTICLE VII. – PARADES.**

1218
1219 **DIVISION 1. – GENERALLY.**

1220
1221 **Sec. 17-211. - Definition.**

1222 In this article "parade" means an assemblage of persons, groups of persons,
1223 vehicles, bands, floats or devices gathered together in public with some
1224 circumstance of show and shall not include a funeral procession or an assemblage
1225 of public officials gathered for any purpose in the public interest.
1226

1227 Cross reference— Definitions and rules of construction generally, § 1-2.

1228

1229

Secs. 17-212—17-220. - Reserved.

1230

1231

DIVISION 2. – PERMIT.

1232

1233

Sec. 17-221. - Required.

1234

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1236

It shall be unlawful for any person or group of persons to hold or participate in a parade in the unincorporated area of the city, without first securing a parade permit from the city.

1237

1238

Sec. 17-222. - Application; contents.

1239

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1241

To obtain a parade permit the person or group of persons desiring to hold a parade shall file with the city police department an application form which shall contain the following information:

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- (1) The name, address and telephone number, both business and residential, of the applicant.
- (2) The date and hours when the parade is to be held.
- (3) The location and time of the point of assembly.
- (4) The location and time of the disbursal.
- (5) The parade route.
- (6) The anticipated number of marching persons.
- (7) The anticipated number and types of motorized and other vehicles and devices.
- (8) The number of bands and floats in the parade.
- (9) A statement by the applicant agreeing to assume all responsibility for the mechanical condition of each vehicle in the parade, and all damages caused by mechanical failure of any vehicle, float or other device in the parade.

1256 (10) A statement by the applicant agreeing to assume all responsibility for
1257 keeping the parade route free and clear of litter and other debris during the
1258 time such parade is carried on or conducted.

1259
1260 **Sec. 17-223. - Application to be made in advance; notice to city departments.**

1261 The application for a parade permit shall be made at least five (5) days before the
1262 date of the scheduled parade during which time the police department shall notify
1263 public utility companies and all affected persons in city government of the time,
1264 place, route and other circumstances of the parade. If either or any of the city
1265 departments are in the process of utility improvements or contemplated
1266 improvements along the parade route during the time of the parade which cannot
1267 be interrupted, the chief of police shall deny the application for a parade permit or
1268 shall reroute it.

1269
1270 **Sec. 17-224. - Bonds.**

1271 (a) Police bond. The chief of police may require the applicant for a parade permit
1272 to furnish to the city a bond in an amount not to exceed two hundred fifty
1273 thousand dollars (\$250,000.00). Any police bond submitted shall be given
1274 from a good and sufficient surety or sureties approved by the city. Such police
1275 bond shall secure the faithful acceptance by the permittee and shall be issued
1276 for the protection of the city and shall be made payable to the city or to any
1277 person in the city who may suffer any injury or damage from any vehicle,
1278 float, device or person participating in the parade. The bonds shall be of a
1279 forfeiture type. All sureties should be licensed to do business in the State of
1280 Georgia, must have the ratings established by the finance department and be
1281 listed in the Department of Treasury's publication of companies holding
1282 certificates of authority as acceptable reinsuring companies.

1283 (b) Sanitation bond.

1284 1) In order to ensure that all rights-of-way used for the parade route are
1285 kept free and clear of all litter and other debris and such route is

1286 properly cleaned up and cleared at the termination of the parade, the
1287 chief of police may require an applicant to furnish to the city a
1288 sanitation bond in the amount of five-thousand dollars (\$5,000.00).
1289 Any sanitation bond submitted shall be given from a good and
1290 sufficient surety or sureties approved by the city. Such sanitation bond
1291 shall secure the faithful acceptance by the permittee and shall be
1292 issued for the protection of and payable to the city. The bonds shall be
1293 of a forfeiture type. All sureties should be licensed to do business in
1294 the State of Georgia, must have the ratings established by the finance
1295 department and be listed in the Department of Treasury's publication
1296 of companies holding certificates of authority as acceptable reinsuring
1297 companies. Release of said bond will be conditioned upon the
1298 permittee completely clearing and cleaning the parade route of any
1299 litter or other debris.

1300 2) The permittee shall have up to six (6) hours following the end of the
1301 event to clean the parade route of any litter or other debris, after which
1302 time the sanitation department will inspect the area to determine if the
1303 permittee has complied with all clean-up requirements. If the
1304 sanitation department is satisfied that the area has been sufficiently
1305 cleared of any litter or other debris, the sanitation department will
1306 release the bond. If the area has not been cleaned sufficiently, the
1307 sanitation department will photograph the uncleaned area, dispatch
1308 crews to the parade route to remove any remaining litter or debris, and
1309 the city shall maintain an action against the bond for the cost of the
1310 clean-up.

1311
1312 **Sec. 17-225. - Issuance.**

1313 The chief of police shall determine whether or not the parade permit application is
1314 properly made and, after analyzing the information contained therein, the

1315 information from the departments consulted and any other information gathered,
1316 shall determine whether or not the parade permit should be granted.

1317

1318 **Sec. 17-226. - Appeals from denial.**

1319 Any applicant who has been denied a parade permit by the chief of police has the
1320 right to file an appeal to the mayor and council within five (5) days from the date
1321 the application is denied. It shall be incumbent upon the board to hear the appeal
1322 at any regular or special meeting of the board, to be held at any time not less than
1323 thirty (30) nor more than ninety (90) calendar days from the date the appeal is
1324 received by the city attorney.

1325

1326 **Sec. 17-227. - Hours restricted.**

1327 No parade permit shall be issued for any parade to be held between 11:00 p.m.
1328 and 7:00 a.m.

1329

1330 **Sec. 17-228. - Exemptions.**

1331 No parade sanitation bond shall be required for:

- 1332 1) Students participating in school sponsored activities where the parade route
1333 does not involve a major or minor arterial street;
- 1334 2) Neighborhood associations where the parade route is within the geographic
1335 area of the subdivision/neighborhood and includes only residential streets; and
- 1336 3) (3) City-sponsored activities.

1337

1338 **Secs. 17-229—17-240. - Reserved.**

1339

1340 **ARTICLE VIII. - OFF-ROAD VEHICLES.**

1341

1342 **Sec. 17-241. - Definitions.**

1343 The following words, terms and phrases, when used in this article, shall have the
1344 meanings ascribed to them in this section, except where the context clearly
1345 indicates a different meaning:

1346
1347 “Off-road vehicle” means any motorized vehicle designed for or capable
1348 of cross-country travel on or immediately over land, water, snow, ice,
1349 marsh, swampland or other natural terrain and not intended for use
1350 predominantly on public roads. “Off-road vehicle” includes, but is not
1351 limited to, four-wheel drive or low-pressure tire vehicles, two-wheel
1352 vehicles, amphibious machines, ground effect or air cushion vehicles, and
1353 any other means of transportation deriving power from any source other
1354 than muscle or wind, except that such term excludes any motorboat; any
1355 military, fire or law enforcement vehicle; any vehicle used exclusively on
1356 airports; all farm machinery, farm tractors, and other self-propelled
1357 equipment for harvesting and transportation of forest products, for clearing
1358 land for planting, for utility services and maintenance, for earth moving,
1359 construction or mining; and self-propelled lawnmowers, snow blowers,
1360 garden or lawn tractors, or golf carts, while such vehicles are being used
1361 exclusively for their designed purposes.

1362
1363 “Operate” means to ride in or on and control the operation of an off-road
1364 vehicle, whether in motion or at rest.

1365
1366 “Operator” means any person who operates or is in actual physical control
1367 of an off-road vehicle.

1368
1369 “Ride” means to ride in or on as a passenger but not control the operation
1370 of an off-road vehicle.

1371
1372 Cross reference— Definitions and rules of construction generally, § 1-2.

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Sec. 17-242. - Enforcement.

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Sec. 17-243. - Operation.

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Secs. 17-244—17-260. - Reserved.

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ARTICLE IX. - MISCELLANEOUS RULES.

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Sec. 17-261. - Manner of riding on vehicle.

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No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This section shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in a space intended for merchandise.

1403 **Sec. 17-262. - Play streets—Authority to establish; signing.**
1404 The city may declare any street or part thereof a play street and place appropriate
1405 signs or devices in the roadway indicating and helping to protect it.

1406
1407 **Sec. 17-263. - Same—driving on; speed limit.**
1408 Whenever authorized signs are erected indicating any street or part thereof as a
1409 play street, no person shall drive a vehicle upon such street or portion thereof
1410 except drivers of vehicles having business or whose residences are within such
1411 closed area, and then the driver shall exercise the highest degree of care in driving
1412 upon such street or portion thereof, and at no time shall the driver's speed exceed
1413 five (5) miles per hour.

1414
1415 **Sec. 17-264. - Roller skates, coasters, etc.**
1416 (a) No person upon roller skates, or riding in or by means of any coasters, toy
1417 vehicles or similar devices, shall go upon any roadway except while crossing
1418 a street on a crosswalk, and when so coasting such person shall be granted all
1419 of the rights and shall be subject to all of the duties applicable to pedestrians.
1420 This section shall not apply upon any street while set aside as a play street.
1421 (b) It shall be unlawful for persons so skating or riding to gather in crowds, or to
1422 create noise or be guilty of any disorderly conduct, or to take hold of or hang
1423 onto any automobile or other vehicle, or in any way to interfere with the
1424 natural progress of automobiles or other vehicles along and in the streets of
1425 the city, or for two (2) or more persons to join hands while skating on the
1426 sidewalk. Any person so skating or riding shall give right-of-way to, and in no
1427 way interfere with, persons walking on the sidewalks.
1428 (c) Any person violating any provision of this section shall be subject to the
1429 penalties provided for violation of this chapter; provided, however, that an
1430 offender under the age of seventeen (17) years shall be dealt with as provided
1431 by O.C.G.A. tit. 15, ch. 11 [§ 15-11-1 et seq.]. The parent of any child and the

1432 guardian of the person or any ward shall not authorize or knowingly permit
1433 such child or ward to violate any of the provisions of this section.
1434

1435 **Sec. 17-265. - Towing.**

1436 No vehicle shall tow more than one (1) other vehicle, nor shall the connection
1437 between vehicles exceed sixteen (16) feet in length.
1438

1439 **Sec. 17-266. - Speed of trains.**

1440 The maximum speed limit for grade crossings in the unincorporated area of the
1441 city is established as designated in section 17-358, and all train operators or
1442 engineers shall reduce the speed of their trains to a maximum of the stated speed
1443 limits within one thousand (1,000) feet before crossing each of these grade
1444 crossings.
1445

1446 **Sec. 17-267. - Railroad trains not to block streets.**

1447 It shall be unlawful for the directing officer or the operator of any railroad train to
1448 direct the operation of or to operate it in such a manner as to prevent the use of
1449 any street for purposes of travel for a period of time longer than five (5) minutes.
1450 This provision shall not apply to trains or cars in motion other than those engaged
1451 in switching.
1452

1453 **Sec. 17-268. - Motor vehicles using bike lanes or paths.**

- 1454 (a) No motor vehicle or motorcycle shall be operated on any bicycle lane or path
1455 for any purpose including parking, passing or turning unless otherwise
1456 permitted by the provisions of this chapter.
1457 (b) No person shall at any time drive, stop or park any vehicle except an
1458 emergency vehicle within a bike lane or bike path.
1459 (c) (c) No person shall drive upon or across a bicycle lane except after giving the
1460 right-of-way to all bicycles within the lane.
1461

1462 **Sec. 17-269. - Contributing factor to a collision.**
1463 (a) If a driver improperly uses a mobile telephone while he or she operates a
1464 moving motor vehicle and it is proven that the mobile telephone's improper
1465 usage distracted the driver from safe operation of such a vehicle and was a
1466 contributing factor in any collision resulting in death, physical injury, and/or
1467 property damage; then the court is authorized to impose an additional fine up
1468 to five hundred dollars (\$500.00) in addition to any other penalty or
1469 punishment imposed by the court for the violation of the underlying traffic
1470 offense. The total fine amount shall not exceed the maximum fine amount
1471 allowed by section 1-10 of this Code.

1472
1473 **Sec. 17-270. - Outdoor advertising spotlights, definitions.**
1474 Outdoor advertising spotlight in sections 17-270 through 17-272 means a mobile
1475 or fixed projector designed to produce an approximately parallel beam of light
1476 which is aimed above the horizontal plane, the use of which includes, but is not
1477 limited to, advertising for special events or an apparatus containing a source of
1478 light and a reflector that projects the light produced in a concentrated, far-
1479 reaching beam and can be mounted on a swivel so that the beam can be directed.

1480
1481 **Sec. 17-271. - Outdoor advertising spotlight permit and time restrictions.**
1482 (a) It shall be unlawful for any person to use an outdoor advertising spotlight in
1483 the unincorporated area of the city without first securing a permit from the
1484 city. No permit issued by the city shall allow outdoor advertising spotlights to
1485 be used for a period exceeding fourteen (14) days from date of issuance. It
1486 shall be unlawful for any person to use a permitted outdoor advertising
1487 spotlight after midnight.
1488 (b) Outdoor advertising spotlights shall not be mounted in a way that is
1489 distracting to motorists or pilots who operate aircraft or in a way that
1490 interferes with the safe operation of a motor vehicle or aircraft, as may be
1491 determined by the police chief or designee.

1492

Sec. 17-272. - Application and issuance of permit.

1493

1494

(a) Application. To obtain an outdoor advertising spotlight permit, the applicant shall file with the police chief or designee a written application on a form promulgated by the police chief or designee. The police chief or designee shall have the authority to determine what pertinent information is required in the application. The application for a permit shall be made at least fifteen (15) days before the date of use of the outdoor advertising spotlight.

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(b) Issuance. The chief of police or designee shall determine whether or not the permit application is complete; that is if it contains all of the pertinent information required in the application form to grant the permit. After receipt of a complete application the police chief or designee shall grant or deny the permit within ten (10) days. If the permit is issued, it shall be granted for a period not to exceed fourteen (14) days from date of issuance. If the permit is denied, the police chief or designee shall provide written notice to the applicant setting forth in reasonable detail the reasons for such denial.

(c) Appeals from denial. The decision of the police chief or designee to deny an outdoor advertising spotlight permit shall be final unless the applicant files a petition for writ of certiorari to the DeKalb County Superior Court within fifteen (15) days of the date of the police chief or designee's decision.

(d) Exemptions. The following properties are exempt from obtaining an outdoor advertising spotlight permit and exempt from the time restrictions set forth in section 17-271: (1) Any property owned or operated by the federal government, state government, any municipality or any public authority of the state, including, but not limited to, Stone Mountain Park.

(e) Renewals. A permit for an outdoor advertising spotlight shall indicate an expiration date which is fourteen (14) days from the date of issue. Application for renewal may be made at any time following the ninetieth day after the date of expiration.

1522 **Sec. 17-273. - Denial.**

1523 No permit for an outdoor advertising spotlight shall be issued under any of the
1524 following circumstances:

- 1525 (1) The outdoor advertising spotlight compromises safety, security and
1526 visibility through excessive glare;
- 1527 (2) The outdoor advertising spotlight diminishes the privacy of the
1528 surrounding neighborhood or neighbors; or
- 1529 (3) The applicant has violated any provision of this code or any other
1530 applicable state or federal laws.

1531

1532 **Sec. 17-274. - Suspension or revocation.**

1533 An outdoor advertising spotlight may be suspended or revoked by the chief of
1534 police or designee for failure of a permit applicant to comply with the provisions
1535 of this article or where the applicant furnishes fraudulent or false information on
1536 the permit application.

1537

1538 **Sec. 17-275. - Permit fees.**

1539 No outdoor advertising spotlight permit shall be issued until a fee in the amount
1540 established by action of the mayor and council, a copy of which will be on file in
1541 the office of the clerk of the mayor and council, is paid to the city.

1542

1543 **Secs. 17-276—17-300. - Reserved.**

1544

1545 **ARTICLES X—XX. – RESERVED.**

1546

1547 **Secs. 17-301—17-350. - Reserved.**

1548

1549 **ARTICLE XXI. - TRAFFIC SCHEDULES.**

1550

1551 **Sec. 17-351. - Through streets.**

1552 The following are through streets: NONE.

1553

Sec. 17-352. - Speed zone numbers 1 (65 mph) and 2 (55 mph).

1554

1555 (a) Zone number 1. The streets referred to in section 17-111 as zone number 1 in
1556 which the speed limit is sixty-five (65) miles per hour shall consist of the
1557 following streets or portions of streets:

1558

1559

Sec. 17-353. - Reserved.

1560

1561

Sec. 17-354. - Speed zone number 4 (45 mph).

1562

1563 The streets referred to in section 17-111 as zone number 4 in which the speed
1564 limit is forty-five (45) miles per hour shall consist of the following streets or
portions of streets:

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Sec. 17-355. - Speed zone number 5 (40 mph).

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The streets referred to in section 17-111 as zone number 5 which the speed limit
is forty (40) miles per hour shall consist of the following streets or portion of
streets:

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Sec. 17-356. - Speed zone number 6 (35 mph).

The streets referred to in section 17-111 as zone number 6 in which the speed
limit is thirty-five (35) miles per hour shall consist of the following streets or
portion of streets:

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Sec. 17-357. - Speed zone number 7 (30 mph).

Zone number 7. The streets referred to in section 17-111 as zone number 7 in
which the speed limit is thirty (30) miles per hour shall consist of the following
streets or portions of streets:

Sec. 17-358. - Speed of trains at certain railroad grade crossings.

- 1582 (a) The speed limit of all at-grade crossings in the city on the Seaboard Coastline
1583 Railroad and the Southern Railroad is forty-five (45) miles per hour.
1584 (b) (b) The speed limit of all at-grade crossings on the Georgia Railroad between
1585 the Decatur city limits and the Stone Mountain city limits is forty-five (45)
1586 miles per hour, and between the Stone Mountain city limits and the Lithonia
1587 city limits is sixty (60) miles per hour except as otherwise provided herein. At
1588 those grade crossings on the Georgia Railroad where there is a traffic signal at
1589 the nearby street and no preempt circuit is in effect, the speed limit is fifteen
1590 (15) miles per hour. The crossings having a speed limit of fifteen (15) miles
1591 per hour are as follows:

1592

Sec. 17-359. - One-way streets.

1593

The following are one-way streets in the directions indicated:

1594

1595

Sec. 17-360. - No left turn zones.

1596

No left turns are allowed at the following locations:

1597

1598

Sec. 17-361. - Truck routes.

1599

The following are truck routes:

1600

All sections of road adjoining property zoned for industrial use by the mayor and
1601 council.
1602

1603

1604

Sec. 17-362. - No parking generally.

1605

The streets referred to in section 17-136 in which there shall be no parking are as
1606 follows:

1607

1608

Sec. 17-363. - [List of roadways for the use of speed detection devices.]

1609

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

1610 Editor's note — the list of roadways for the use of speed detection devices is
1611 incorporated herein by reference as if fully set out at length. A copy is on file and
1612 available for inspection in the offices of the city.
1613

1614 **Section 2:**

- 1615
- 1616 A. It is hereby declared to be the intention of the Mayor and City Council that all
1617 sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were,
1618 upon their enactment, believed by the Mayor and City Council to be fully valid,
1619 enforceable and constitutional.
1620
- 1621 B. It is hereby declared to be the intention of the Mayor and City Council that, to the
1622 greatest extent allowed by law, each and every section, paragraph, sentence, clause or
1623 phrase of this Ordinance is severable from every other section, paragraph, sentence,
1624 clause or phrase of this Ordinance. It is hereby further declared to be the intention of
1625 the Mayor and City Council that, to the greatest extent allowed by law, no section,
1626 paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon
1627 any other section, paragraph, sentence, clause or phrase of this Ordinance.
1628
- 1629 C. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
1630 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
1631 unenforceable by the valid judgment or decree of any court of competent jurisdiction,
1632 it is the express intent of the Mayor and City Council that such invalidity,
1633 unconstitutionality, or unenforceability shall, to the greatest extent allowed by law,
1634 not render invalid, unconstitutional or otherwise unenforceable any of the remaining
1635 phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the
1636 greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs
1637 and sections of the Ordinance shall remain valid, constitutional, enforceable, and of
1638 full force and effect.
1639

1640 **Section 3.** All ordinances or resolutions and parts of ordinances or resolutions in
1641 conflict herewith are hereby expressly repealed.
1642

1643 **Section 4.** The within ordinance shall become effective upon its adoption.
1644

1645 **Section 5.** The provisions of this Ordinance shall become and be made part of The
1646 Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be
1647 renumbered to accomplish such intention.
1648

1649 **SO ORDAINED AND EFFECTIVE** this the ____ day of _____,
1650 2019.
1651

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

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Approved:

Jason Lary, Sr., Mayor

As to form:

Winston A. Denmark, City Attorney

Attest:

Megan P. Reid, City Clerk



COUNCIL MEETING AGENDA ITEM

SUBJECT: Streets and Sidewalks Ordinance (Chapter 23)

- | | | |
|---|-------------------------------------|--|
| <input checked="" type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input type="checkbox"/> OTHER |

Council Meeting: 04/22/2019

SUBMITTED BY: Christa Freeman

PURPOSE: 2nd Reading

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

1 **AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING**
2 **CHAPTER 23 (STREETS AND SIDEWALKS) OF THE CITY CODE.**

3
4 **WHEREAS,** the City of Stonecrest, Georgia Mayor and City Council are authorized by
5 the City Charter to provide for the general health, safety and welfare of the
6 citizens of the City; and

7
8 **WHEREAS,** the Mayor and City Council find it to benefit the welfare of the citizens to
9 provide a standard for street regulations and usage; and

10
11 **WHEREAS,** this Ordinance shall be adopted as part of the City of Stonecrest City
12 Code, as Chapter 23 (Streets and Sidewalks).

13
14 **THEREFORE,** the Mayor and City Council of the City of Stonecrest, Georgia hereby
15 ordain as follows:

16
17 **Section 1:** The Mayor and City Council of the City of Stonecrest, Georgia,
18 hereby adopt an Ordinance designated as “Chapter 23. Streets and Sidewalks” to
19 read and be codified as follows:

20
21 **CHAPTER 23. STREETS AND SIDEWALKS.**

22
23 **ARTICLE I. IN GENERAL.**

24
25 **Sec. 23-1. Procedures for Changing Street Names.**

26 (a) An application requesting a street name change shall be
27 submitted to the Community Development Department and
28 contain the following:

29 (1) A written petition bearing signatures of a minimum of 51
30 percent of the property owners fronting the street. The
31 property owners signing shall also constitute a minimum
32 of 51 percent of the linear street frontage. Linear street
33 frontage shall include frontage of properties that abut both
34 sides of the street right-of-way.

35 (2) Existing and proposed street names.

36 (3) Reason for requesting change.

37 (4) Map showing street or portion of street affected by
38 change.

- 39 (5) A filing fee in the amount established by action of the
40 City Council, a copy of which is on file in the office of the
41 City Clerk.
- 42 (b) The application shall be processed and scheduled for public
43 hearing as follows:
- 44 (1) The proposed name shall be checked by the City to ensure
45 non-duplication.
- 46 (2) Public hearings before the Planning Commission may
47 coincide with the schedule for rezoning cases adopted
48 annually by the City Council.
- 49 (3) The City shall notify, by regular mail, all owners of record
50 who have property fronting on the affected street,
51 according to tax records available to the Department, of
52 the time and place of the public hearings. The postmaster
53 shall also be notified of the hearings by regular mail.
- 54 (4) Legal notice of the application and the date, time and
55 place of the public hearings shall be published in the
56 official legal organ of the City at least ten days prior to the
57 first public hearing.
- 58 (5) The application shall be forwarded with the Community
59 Development Department's recommendation to the
60 Planning Commission for consideration at the scheduled
61 public hearing and then forwarded to the City Council
62 with the recommendations of the Community
63 Development Department and the Planning Commission.
- 64 (6) The final decision on the proposed change shall be made
65 by the City Council after having held the scheduled public
66 hearing.
- 67 (7) Petitioners shall bear all costs necessary for street marker
68 changes as determined by the City.

- 69 (c) Applications affecting the same street or portion thereof shall not
70 be submitted more than once every 24 months.
- 71 (d) Requests initiated by any department or agency of the City shall
72 be submitted to the Community Development Department.
73 Review and processing procedures shall be the same as that of a
74 property owner's application except that the fee and a property
75 owner's petition shall not be required in requests of this nature.

76
77 **Sec. 23-2. Construction Work on Major Streets, Intersections; time**
78 **restrictions.**

79 No construction work or maintenance work shall be done within the
80 traffic lanes of major through streets or intersections thereof from the
81 hours of 7:00 to 9:00 a.m., and 4:00 to 6:00 p.m., Monday through
82 Friday. All underground construction work shall be paved or covered
83 with steel plates during such rush hours or at other times when
84 construction is not being accomplished. This section does not apply to
85 emergency repairs.
86

87 **Sec. 23-3. Public Transportation Carrier Transit Bus Stop Shelters.**

88 Bus stop shelters may be erected on private property, public streets,
89 public property, or public rights-of-way by a public transportation carrier
90 or as authorized by a public transportation carrier, subject to the
91 following conditions:
92

- 93 (1) Plans and specifications for the proposed installations shall be
94 submitted and approved by the City in accordance with City
95 requirements.
- 96 (2) Bus stop shelters may be erected at any bus stop utilized by a
97 public transportation carrier.
- 98 (3) The owner or constructor of the bus stop shelter shall be
99 responsible for the maintenance of the structure.

- 100 (4) A bus stop shelter may be erected only at bus stops identified by
101 a public transportation carrier providing service to that location.
102 The public transportation carrier may contract with appropriate
103 subcontractors to provide and maintain bus stop shelters at
104 various locations.
- 105 (5) Bus stop shelters may carry advertising placed upon them, subject
106 to the following rules or regulations:
- 107 a. Such advertising matter must be attached to the shelter
108 and not extend out beyond the parameters of the shelter;
- 109 b. Bus stop shelters carrying advertising matter must be
110 constructed so as not to obstruct vision triangles at
111 intersecting driveways and rights-of-way;
- 112 c. Advertising shall not violate ordinances or state law
113 obscenity provisions;
- 114 d. Advertising shall not contain flashing lights or lights that
115 would interfere with motorists on the roadway.
- 116 e. Comply with all city, state and federal regulations.
- 117 (6) A bus stop shelter must conform to the reasonable rules and
118 regulations established under this section, including the
119 following:
- 120 a. Bus stop shelters should be at least 48 inches from the
121 curb, where no curb or gutter is present the front of the
122 bus shelter shall be at least ten (10) feet from the edge of
123 the main traveled roadway;
- 124 b. Bus stop shelters shall permit a clearance of at least 48
125 inches on pedestrian paths, driveways, sidewalks,
126 drainage structures, etc.;
- 127 c. Sides and/or internal dividers in shelters shall be
128 constructed to provide visibility of waiting passengers to
129 the oncoming traffic flow on the road, highway or street

- 130 on which the shelter is located, provided, however, one
131 double-faced panel containing advertising may be
132 attached to the end of the shelter farthest from the traffic
133 flow on the side of the street on which the shelter is
134 located;
- 135 d. Each bus stop shelter shall be properly lighted to ensure
136 public safety and provide complete visibility of the shelter
137 from the abutting roadway;
- 138 e. Comply with all city, state and federal regulations.
- 139 (7) On application by a public transportation carrier or a contractor
140 authorized by a public transportation carrier to provide bus stop
141 shelters to a public transportation carrier, a permit shall be issued
142 to build a shelter and allow advertising thereon unless there is
143 adequate reason for denying the permit.
- 144 (8) Any public transportation carrier which provides more than one
145 bus stop shelter shall make application for a permit to cover each
146 of its various locations.
- 147 (9) An application for a building permit for construction of a bus
148 shelter shall be submitted and accompanied by the following:
- 149 a. Authorization and approval of the public transportation
150 carrier and the State Department of Transportation.
- 151 b. Plans and specifications for the proposed installation.
- 152 c. If a bus shelter is to be erected or maintained on property
153 other than the right-of-way of a public road or street, an
154 authorization of the owner of the property.
- 155 (10) The public transportation carrier shall remove the shelter upon
156 the request of the City upon the City showing that such shelter
157 poses a traffic hazard, impediment to pedestrian traffic or other
158 reasonable cause.

159 (11) Notwithstanding any other ordinance or part of an ordinance
160 prohibiting the construction of bus stop shelters or commercial
161 advertising on public rights-of-way, a bus stop shelter complying
162 with the provisions of this section may be constructed on public
163 rights-of-way and have commercial advertising placed thereon
164 and the provisions of this section shall control such construction
165 and advertisement.

166
167 **Sec. 23-4. Permit, Franchise Fee Required prior to Installation of**
168 **Poles, Pipes, etc., on Public Roads or Alleys.**

- 169 (a) No person shall install, construct, maintain or cause to be
170 installed, constructed or maintained any pipe, main, conduit,
171 cable, wire, pole, tower, traffic or other signal and other
172 equipment, facilities, appliance, receptacle or sign, in, on, along,
173 over or under the public roads or alleys of the City which are a
174 part of the city road system without first obtaining a permit
175 therefor and paying franchise fees hereafter provided; provided,
176 however, that such franchise fees shall not be in excess of those
177 as may be authorized by any federal regulatory agency where
178 applicable.
- 179 (b) There is assessed a fee in the amount established by action of the
180 City Council, a copy of which is on file in the office of the City
181 Clerk, for the use of pipes, mains, conduits, cables, wires, poles,
182 towers and public rights-of-way.
- 183 (c) For each sign and each receptacle on the public right-of-way,
184 excepting those used in connection with the collection and
185 delivery of the United States mail, there is assessed a fee in the
186 amount established by action of the City Council, a copy of
187 which is on file in the office of the City Clerk.

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Sec. 23-5. Defacing Streets, Sidewalks or Curves.

It shall be unlawful for any person to mark or otherwise deface any public sidewalk, street, or curb in the City by painting any numbers, symbols, or advertising thereon, regardless of the purpose. This section does not apply to public utilities and their agents, Metropolitan Atlanta Rapid Transit Authority, and other governmental agencies.

Sec. 23-6. Granite Curb.

- (a) In addition to any permit requirements, no person shall remove, damage, haul away or cause misalignment of any granite curbing on public streets, including radius curb and catch basin stones, for any reason whatsoever without first receiving written permission from the City. Granite curbing on public streets is City property.
- (b) Any removal or replacement of granite curbing on public streets must be done in accordance with the City's land development regulations and the specifications for granite curbing from the Public Works Director. Granite curbs shall be removed by means to keep granite slabs intact and in a condition for re-use. Any granite curb that is removed shall be delivered to the Public Works Department, unless otherwise authorized by the City.
- (c) Upon conviction in municipal court, any person who violates subsection (a) or (b) of this section shall be fined up to \$500.00 per linear foot. Each linear foot shall be considered a separate offense.

Sec. 23-7. Mailboxes.

- (a) All mailboxes, whether installed on public or private streets, shall comply with the United States Postal Service (USPS) standards for the construction of mailboxes. A statement indicating the type of mail delivery available by the United States Postal Service

- 222 (e.g., delivery to an individual mailbox or central delivery via
223 cluster mailbox stations) shall be indicated on an approved
224 subdivision plat or development permit.
- 225 (b) The property owner shall be responsible for the maintenance and
226 repair of the mailboxes.
- 227 (c) Lateral placement of a non-cluster, individual mailbox shall be no
228 more than six (6) inches from the face of the curb or edge of
229 pavement if no curb and gutter is present as defined by USPS
230 installation requirements. In no case shall the face of the mailbox
231 extend out over the face of the curb or edge of pavement if no
232 curb and gutter are present.
- 233 (d) All monument-type or brick, stone, or masonry veneered
234 mailboxes must be constructed with a hollow core. Concrete
235 block construction is prohibited.
- 236 (e) Should the United States Postal Service determine that cluster
237 mailboxes are required, said mailboxes shall be subject to the
238 standards found in the City's Land Development Regulations.

239 **Sec. 23-8 – 23-32. Reserved.**

240
241 **ARTICLE II. STREET LIGHT STANDARDS.**

242 **Sec. 23-33. Adoption.**

- 243 (a) To ensure adequate illumination of the public rights-of-way for
244 the promotion of safety and security for the users of these rights-
245 of-way and adjacent properties, the American National Standard
246 Practice for Roadway Lighting of the Illuminating Engineering
247 Society, 1981 edition, as approved by the American National
248 Standards Institute, is adopted as the standard (except as noted in
249 subsection (b) of this section) for the installation and operation of
250 public right-of-way lighting in the City. Permanent copies of the

251 standard are on file with the City Clerk and the Department of
 252 Public Works.

253 (b) Lighting fixtures installed within the public rights-of-way to be
 254 operated for the purpose of street illumination shall comply with
 255 these standards. The minimum average horizontal footcandle
 256 illumination level by roadway classification shall be:

257

Roadway Classification	Commercial Area	Intermediate Area	Residential Area
Major	2.0	1.4	1.0
Collector	1.2	0.9	0.6
Local or Residential	0.9	.06	0.4

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The uniformity of illumination shall be such that the point of lowest illumination shall have at least one-third of the average horizontal footcandle required illumination level, except that on local or residential streets it may be not less than one-sixth of the average.

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Sec. 23-34. Compliance.

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(a) Any party requesting permission to install or operate lighting fixtures within public rights-of-way shall furnish plans and specifications to the Public Works Department for approval showing how the proposed lighting meets the standards, and no lighting shall be installed or operated without this approval. Should the Department disapprove the request to install or operate lighting fixtures within any right-of-way, the same shall be communicated in writing to the party requesting approval. The written communication shall include the specific reasons for

275 disapproval. Any disapproval of a light or lighting system by the
276 department may be appealed to the City Council. If any party
277 desires to appeal an adverse decision by the Department, a notice
278 of appeal shall be filed with the Department within 30 days from
279 the date following the written notice of disapproval, and it shall
280 be the responsibility of the Department to transmit forthwith to
281 the City Council all papers and allied documents constituting the
282 record upon which the action appealed from was taken and to
283 ensure that the appeal is promptly placed upon the agenda of the
284 Council for its determination. The City Council may reverse or
285 affirm, wholly or partly, or may modify the order, requirement,
286 decision or determination appealed from.

287 (b) Roadway or street lighting luminaires or fixtures installed within
288 the public rights-of-way as security lights, or for the purpose of
289 lighting areas other than the public streets, shall be mounted on
290 the side of the pole opposite from the street and shall be oriented
291 in such a manner to ensure that the lateral light distribution
292 pattern is parallel to the street, and that the vertical light
293 distribution, at the initial light source, is perpendicular to the
294 street, so as to protect the users of the street from objectionable
295 glare. The approval of the City shall be obtained before
296 installation of these lights.

297 (c) Other lighting fixtures to be installed within or outside of public
298 rights-of-way for whatever purpose shall be installed and
299 operated in such a manner to prevent glare from being a hazard to
300 or interfering with the normal use of the public rights-of-way.

301 **Sec. 23-35 – 23-56. Reserved.**

302

303 **ARTICLE III. EXCAVATIONS.**

304

305 **Sec. 23-57. Definitions.**

306 The following words, terms and phrases, when used in this
307 Article, shall have the meanings ascribed to them in this section, except
308 where the context clearly indicates a different meaning:

309 *Excavation* means the removal of earth, rock or other soil
310 materials for the purpose of installing utility facilities, non-single-family
311 residential building foundations, or other similar uses.

312

313 **Sec. 23-58. Applicability.**

314 This Article applies to all excavations made for the purposes of land
315 development, utility installations, building construction or similar
316 activity within the City.

317

318 **Sec. 23-59. Federal Regulations Adopted.**

319 Any person making an excavation shall meet the requirements as set
320 forth in the Federal Occupational Safety and Health Regulations for
321 Construction, as adopted April 17, 1971, and each amendment thereafter,
322 with the exceptions and amendments included in this Article.

323

324 **Sec. 23-60. Same – Amendments and Exceptions.**

325 The following amendments and exceptions shall apply to the
326 development requirements adopted by section 23-59:

327

328 (1) Excavations involved in the construction of a basement or
329 foundation for a single-family residential structure are
330 exempt from all of these requirements, with the exception
331 that any excavation or foundation grading on which
332 construction does not proceed within 30 days shall be
333 fenced, so as to prevent general public entrance to the
334 building site, or filled in. However, an extension may be
335 allowed if justified and if approved by application to the
 City.

336 (2) The administration and enforcement of the provisions of
337 this Article shall be the responsibility of the department
338 having applicable jurisdiction over the type of work
339 involved.

340 (3) In table P-2, the line reading "ten to 15 feet, likely to
341 crack" and the column "Maximum Spacing, Vertical
342 Feet," shall contain the number "4."

343 **Sec. 23-61 – 23-78. Reserved.**

344
345 **ARTICLE IV. MOVING BUILDINGS AND OTHER OVERSIZE**
346 **LOADS.**

347 **DIVISION I. GENERALLY.**

348
349
350 **Sec. 23-79. Purpose.**

351
352 The purpose of this Article is to establish uniform permitting regulations
353 and procedures for the moving of houses and other oversize loads on
354 City roads, streets and bridges within the City, thereby protecting private
355 property and lives against loss and damage, protecting the public
356 investment in rights-of-way, roadbeds, traffic signs and signalizations
357 and other structures, controlling and regulating the flow of traffic and
358 ensuring the safety of the public.

359 **Sec. 23-80. Variances.**

360
361 The Public Works Department shall be authorized to grant an
362 administrative variance from the requirements of this Article, but only
363 where, by reason of the exceptional historical, architectural or social
364 uniqueness or significance of the structure, the strict application of the
365 provisions of this Article would work an undue hardship upon the owner
366 of the structure, and provided that the grant of any variance shall not
367 substantially impair the intent and purpose of this Article and further

368 provided that the provisions of this Article shall be complied with to the
369 maximum extent possible.

370 **Sec. 23-81 – 23-103. Reserved.**

371 **DIVISION 2. PERMIT.**
372

373 **Sec. 23-104. Required.**
374

375 No person shall move a house or other oversize load on any city road,
376 street or bridge within the City without a permit to do so issued by the
377 Public Works Department.

378 **Sec. 23-105. Application.**
379

- 380 (a) All persons desiring to obtain a permit under the provisions of
381 this Article shall make application on the form prescribed by the
382 City.
- 383 (b) The application shall include, but not be limited to, the following:
- 384 (1) Name, address and phone number of the mover/applicant.
 - 385 (2) Name, address and phone number of the owner of the
386 structure.
 - 387 (3) Address of the present location of the structure.
 - 388 (4) Destination of the structure.
 - 389 (5) Name and address of insurance company.
 - 390 (6) Total height, outside width and length of vehicle and load.
 - 391 (7) Certification that the person making application on behalf
392 of the mover has lawful authority to execute such
393 application and that all requirements under this section
394 and sections 23-106 and 23-107 have been met.
 - 395 (8) The proposed date and time of the move.
 - 396 (9) A statement that the mover/applicant agrees to hold the
397 city harmless from all claims or causes of action arising
398 out of any damage to a public road or bridge, to persons,

399 to public or private property caused by a permitted load or
400 vehicle, or its private escort vehicle, and to recompense
401 the City for any expenditures made by the City to repair
402 such damages caused by the permitted vehicle or load.

403 (c) As a condition to the issuance of a permit, the City, when deemed
404 necessary in the interest of public safety, may require the use of a
405 front or rear escort, or both, either or both of which may be a
406 public safety vehicle.

407 (d) All permit applications must be filed at least five days prior to the
408 date of the proposed move and shall be accompanied by a fee in
409 the amount established by action of the City Council, a copy of
410 which is on file in the office of the City Clerk. If the application
411 is not approved, the fee will be refunded to the applicant, less an
412 administrative processing charge in the amount established by
413 action of the City Council, a copy of which is on file in the office
414 of the City Clerk.

415
416 **Sec. 23-106. Scope Limited.**

417 (a) Except as authorized under section 23-80, a permit under this
418 Division shall not authorize the operation of a vehicle or load
419 with:

- 420 (1) Total load length exceeding 75 feet;
421 (2) Total load width exceeding 14 feet, including mirrors and
422 accessories attached thereto; or
423 (3) Total height exceeding 13 feet six inches.

424 (b) Notwithstanding any provision of this Article to the contrary, no
425 vehicle or load shall be operated over any bridge with a posted
426 limit which is less than the total gross weight of the vehicle and
427 its load or less than the total gross weight permitted under this
428 Article.

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430

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Sec. 23-107. Conditions to Issuance.

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In addition to compliance with other conditions imposed under the provisions of this Division, any person receiving a permit under this Division thereby certifies that such person will comply or has complied (as applicable herein) with the following conditions governing the operation of the permitted vehicle or load:

437

(1) Federal and state laws and regulations.

438

(2) The movement of the permitted vehicle or load will take place only on Monday through Thursday, and between 9:00 a.m. and 3:00 p.m.

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(3) The permitted load or vehicle will not be operated over any city road other than those described or allowed in the permit.

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(4) The operator of a permitted vehicle and load shall maintain 50-foot intervals between each vehicle load. In addition, when the normal flow of traffic becomes impeded, such vehicle or load shall move off the traveled portion of the public road until such traffic congestion has been cleared. Normal movement may then be resumed until another traffic congestion occurs.

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(5) The permittee shall maintain, during the existence of the permit, public liability and property damage insurance in at least the following amounts: public liability, \$300,000.00 each accident; \$100,000.00 each person injured; total property damage, \$50,000.00; provided that nothing herein shall prevent the City from requiring any additional undertaking or security as may be deemed necessary to compensate the City for any injury to any public property therein, including a bridge. Proof of such

- 460 liability insurance and other security shall accompany the
461 permit application.
- 462 (6) The permittee shall ensure that the operator of a leased
463 vehicle carries on such operator's person written proof of
464 the identity of the lessee.
- 465 (7) The permittee shall not allow the permit to be used other
466 than for the movement by the particular vehicle for which
467 the permit was issued.
- 468 (8) The minimum equipment which shall be used for moving
469 a house is: a tandem truck, one set of tandem dollies in
470 good condition, and one extra skidder or wrecker in good
471 condition and capable of moving the whole load in case of
472 a breakdown.
- 473 (9) The permittee shall measure the house and, prior to
474 applying for a permit, check the route stated in the permit
475 application to ensure obstacle clearance and necessary
476 places periodically to pull off the road for the purpose of
477 preventing unnecessary traffic congestion.
- 478 (10) Before moving a house, all masonry shall be removed
479 from a masonry-veneered house.
- 480 (11) All mailboxes, highway signs and other movable obstacles
481 to the move of the house shall be removed as the house
482 approaches such an obstacle and re-erected immediately
483 after the house passes such obstacle in equal or better
484 condition than prior to removal.
- 485 (12) The movement shall be confined to the route stated in the
486 application, and in no case shall exceed any straight line
487 distance of 50 miles.

488 **Sec. 23-108. Route Approval.**
489

490 Prior to the issuance of a moving permit under this Division, the
491 transport route proposed by the mover/applicant must be reviewed and
492 approved by the Public Works Department and Police Department.
493 Unless no other reasonable alternative route exists, only those sections of
494 city roads designated as truck routes by the City shall be used for the
495 moving of such structures.

496 **Sec. 23-109. Revocation, Suspension or Denial.**
497

498 (a) The Public Works Department shall be authorized to deny,
499 suspend or revoke a permit under this Division requested by an
500 applicant or issued to a permittee. Permits may be denied,
501 suspended or revoked for cause including, but not limited to, any
502 of the following reasons:

- 503 (1) Failure to comply with the provisions of this Article.
- 504 (2) Repeated past violations by the applicant or permittee, of
505 a relatively minor nature.
- 506 (3) A single, but aggravated violation.
- 507 (4) A material misrepresentation made by the applicant for a
508 permit.
- 509 (5) Any other facts indicating that the applicant or permittee
510 is a likely risk to the safety of the traveling public and/or
511 damage to public property.

512 (b) The City shall provide the applicant or permittee written notice of
513 the decision to deny, revoke or suspend the application or permit.
514 Such notice shall set forth in reasonable detail the reasons for
515 such action and shall include notice of the right to appeal under
516 the provisions of this Division.

517
518 **Sec. 23-110. Appeals.**

519 An applicant or permittee under this Division shall be entitled to appeal a
520 decision of the Public Works Department denying, suspending or

521 revoking a permit, to the Mayor and City Council, by filing a notice of
522 appeal with the Public Works Department within ten (10) days of the
523 decision appealed from. The Mayor and City Council shall schedule a
524 hearing on the appeal at the next available public meeting, but no later
525 than 30 days after the appeal is filed and shall provide the appellant
526 notice of the date of such hearing at least seven (7) days prior to the
527 hearing. The City Council's decision is final and may be appealed by the
528 applicant/permittee by Petition for Writ of Certiorari to the DeKalb
529 County Superior Court in accordance with State law.

530
531 **Sec. 23-111 – 23-133. Reserved.**

532
533 **ARTICLE V. ENCROACHMENT PERMITS.**

534
535 **Sec. 23-134. Purpose; Scope; Exemption.**

- 536
537 (a) The purpose of this Article is to:
- 538 (1) Establish a uniform permitting and inspection process, and
539 reasonable regulations for the installation, construction,
540 maintenance, renewal, removal, and relocation of pipes,
541 mains, conduits, cables, wires, poles, towers, traffic and
542 other signals, and other equipment, facilities, or
543 appliances of any utility in, on, along, over, or under the
544 public roads, rights-of-way, and permanent easements of
545 the City, which are a part of the city road system lying
546 within the City, hereinafter collectively referred to as "the
547 city's public roads";
- 548 (2) Establish a uniform permitting and inspection process, and
549 reasonable regulations for encroachment permits for the
550 construction, relocation, or removal of driveways,
551 sidewalks, curbing, bike lanes, multi-use trails, associated
552 drainage facilities, and landscaping construction, and

- 553 maintenance in, on, along, over, or under the City's public
554 roads;
- 555 (3) Efficiently manage use of the City's public roads and
556 maintain and preserve the physical integrity and layout of
557 its public roads;
- 558 (4) Ensure that work is planned and performed in a manner
559 that does not cause damage and does not create hazardous
560 conditions in, on, along, over, or under the City's public
561 roads;
- 562 (5) Inspect and monitor work to ensure that appropriate
563 signage, barricades, and lighting are utilized to protect the
564 public when work is in progress;
- 565 (6) Inspect and monitor work so that it is performed in a safe
566 manner that reduces the risk of injury to persons using the
567 City's public roads;
- 568 (7) Inspect and monitor work to reduce damage to private
569 property, including but not limited to cars, motorcycles,
570 and bicycles, traveling on the City's public roads;
- 571 (8) Inspect and monitor work to reduce damage to water and
572 sewer lines, sidewalks, rights-of-way, or road surfaces;
- 573 (9) Regulate the time and location of excavation and other
574 work to preserve effective traffic flow and prevent
575 hazardous road conditions; and
- 576 (10) Recover a share of the cost of processing permits,
577 inspecting and monitoring permitted work, and the cost of
578 increased street repair and paving resulting from repeated
579 excavation.
- 580 (b) All city departments and any infrastructure for city-owned
581 facilities are exempt from compliance with the terms of this
582 Article.

583 (c) If there is a conflict between the provisions and requirements in
584 this Article, and federal law, state law, and/or any applicable state
585 regulations adopted by the Georgia Department of Transportation
586 (GDOT), as they exist now or may be amended hereafter, then
587 federal law, state law, and/or the GDOT regulations shall govern.
588

589 **Sec. 23-135. Permit.**

590 (a) It shall be unlawful for any person to perform the work listed in
591 subsections (a)(1) and (2) of this section without the prior
592 issuance of an encroachment permit by the Director of Public
593 Works:

594 (1) Installation, construction, maintenance, renewal, removal,
595 and relocation of pipes, mains, conduits, cables, wires,
596 poles, towers, traffic and other signals, and other
597 equipment, facilities, or appliances of any utility in, on,
598 along, over, or under the City's public roads.

599 (2) Construction, relocation, or removal of driveways,
600 sidewalks, curbing, bike lanes, multi-use trails, associated
601 drainage facilities, and landscaping construction and
602 maintenance in, on, along, over, or under the city's public
603 roads.

604 (b) The Public Works Department shall develop application forms;
605 establish, in writing, the documentation and information required
606 for an encroachment permit application to be considered
607 complete; develop objective, written criteria for granting, denying
608 or revoking encroachment permits; develop guidelines listing the
609 information required to be submitted on or with plans and
610 specifications; promulgate all guidelines and necessary forms;
611 and take such other administrative steps as may be necessary to
612 enforce the provisions of this Article.

- 613 (c) All information and plans required to be submitted by applicant
614 and the objective, written criteria for evaluating permits shall
615 relate solely to managing the use of the City's public roads, and
616 shall be designed solely to obtain information that furthers the
617 stated purposes of this Article.
- 618 (d) The application for an encroachment permit may require the
619 applicant to describe the nature, extent, and location of the work,
620 and may also require the applicant to furnish an indemnity bond
621 or other acceptable security conditioned to pay for any damages
622 to any part of the City's public roads or to any member of the
623 public caused by work performed under authority of such permit.
- 624 (e) Each applicant shall pay a nonrefundable encroachment permit
625 application fee and cost recoupment fees in an amount
626 established by the Mayor and City Council.
- 627 (f) The Director of Public Works shall determine if the proposed
628 work can be performed under one permit or will require multiple
629 permits. At a minimum, each applicant shall be required to obtain
630 a separate encroachment permit for work that will be performed
631 on more than one street.
- 632 (g) An applicant must pay the fees and submit a complete application
633 to the Director of Public Works. The Director shall grant or deny
634 an encroachment permit 30 days from receipt of a complete
635 application. Each encroachment permit expires six (6) months
636 from the date of issuance by the City as reflected on the permit.
- 637 (h) Any encroachment permit may be denied or revoked by the
638 Director of Public Works for a violation of this Article or a
639 failure to show compliance with the City's objective, written
640 criteria or guidelines established pursuant to this Article. The
641 decision to deny or revoke an encroachment permit shall become
642 effective 14 days after the date the written notice is mailed to the

643 applicant at the address on the encroachment permit application.
644 The applicant/permittee may contest the denial or revocation by
645 sending an appeal with written reasons explaining why an
646 encroachment permit should not be denied or revoked prior to the
647 effective date of denial or revocation to the Public Works
648 Director. Upon receipt of same, the Public Works Director shall
649 refer the case to the City Manager or designated Hearing Officer.
650 The City Manager or designee shall consider the written reasons
651 and advise the applicant/permittee of his decision in writing
652 within five (5) business days of receipt. The City Manager's or
653 designated Hearing Officer's decision in this regard is final. If the
654 applicant/permittee contests the decision to deny or revoke an
655 encroachment permit, the effective date of such denial or
656 revocation shall be three days after the date of the City Manager's
657 or designated Hearing Officer's final decision. The
658 applicant/permittee may appeal the City Manager or designee's
659 final decision by filing a Petition for Writ of Certiorari with the
660 DeKalb County Superior Court in accordance with State law.

661
662 **Sec. 23-136. Plans, Specifications and Responsibility.**

- 663 (a) Plans and specifications for all work to be covered by an
664 encroachment permit shall be submitted to the Public Works
665 Director, and shall show in detail all required pertinent data and
666 features of construction.
- 667 (b) Ground-mounted facilities shall be of a design compatible with
668 abutting property.
- 669 (c) All work covered by an encroachment permit shall meet and
670 comply with all applicable city, state and federal laws,
671 regulations, requirements and permits, including but not limited
672 to this Code, the GDOT Standard Specifications for Construction

673 of Roads and Bridges, the GDOT Policy for Accommodation of
674 Utilities, the National Electrical Safety Code, the American
675 National Standards Institute Standard Code for Pressure Piping,
676 the American Association of State Highway Transportation
677 Officials (AASHTO) Manual, and the Georgia Sedimentation and
678 Erosion Control Act.

679 (d) Permittees shall be solely and fully responsible for any claims,
680 actions, damages or injury related in any way to the design and
681 construction of permitted work.

682 (e) Permittees shall be solely responsible for providing adequate
683 safety measures during all phases of permitted work.

684

685 **Sec. 23-137. Failure to Obtain Permit.**

686 Any person who performs the work listed in Section 23-135 (a)(1) and
687 (2) without obtaining an encroachment permit shall be fined up to
688 \$500.00 upon conviction in municipal court for each violation.

689

690 **Sec. 23-138 – 23-157. Reserved.**

691

692 **ARTICLE VI. SIDEWALK DISTRICTS.**

693

694 **Sec. 23-158. Program Established.**

695 There is established a residential sidewalk district program whereby
696 eligible residential areas may petition the City to install sidewalks within
697 their neighborhood.

698

699 **Sec. 23-159. Sidewalk District Requirements.**

700 (a) A sidewalk district can only be established in residentially zoned
701 districts where the streets or roads within the proposed sidewalk
702 district have been accepted by the City for perpetual maintenance.

703 (b) Sidewalk construction must begin and end at existing sidewalks
704 or public road intersections, or immediately across from public
705 road intersections, but may extend past a public road intersection
706 to complete the frontage adjoining the proposed sidewalk
707 construction.

708
709 **Sec. 23-160. Application and Petition.**

710 (a) *Application.* Anyone who desires to have a sidewalk district
711 created shall submit an application to the Director of Public
712 Works or designee. Said application shall be made on forms made
713 available by the Public Works Department and shall at a
714 minimum contain a plat showing the area of the proposed
715 sidewalk district and the location of the proposed sidewalks.

716 (b) *Estimate of costs.*

717 (1) Based upon the plat submitted with the application, the
718 Director of Public Works or designee shall prepare an
719 estimate of the total project cost and pro rata cost per
720 property owner for the creation of the proposed sidewalk
721 district, including the costs for the design, contracting,
722 acquisition of rights-of-way, and inspection for sidewalk
723 construction funded by the sidewalk district. The Director
724 of Public Works' estimate may not establish a limit on the
725 amount of the project costs and may not limit the amount
726 that may be assessed against the property owners.

727 (2) If the application is incomplete or does not contain
728 information sufficient for the Director of Public Works to
729 prepare the estimate, then the Director of Public Works
730 shall return the application to the applicant within 30 days
731 of receipt indicating the additional information required.
732 Otherwise, the Director of Public Works shall prepare the

733 estimate of costs and send the estimate to the applicant
734 within 90 days of receipt of a complete application.

735 (c) *Petition.*

736 (1) *Circulation.* The applicant shall be responsible for gaining
737 the required signatures on a sidewalk district petition from
738 property owners within the proposed sidewalk district.

739 (2) *Contents.* The petition shall contain the name, property
740 address within the proposed sidewalk district, mailing
741 address, and phone number of all property owners who
742 sign the petition. If the property owner does not reside at
743 the property within the sidewalk district, then the petition
744 shall contain both the property address within the district
745 and the property owner's actual address outside the
746 district.

747 (3) *Plat.* The petition shall have attached to it a copy of the
748 plat submitted to the Director of Public Works showing
749 the boundaries of the proposed sidewalk district and a
750 copy of the Director of Public Works' estimate of the total
751 project cost and the pro rata cost per property owner.

752 **Sec. 23-161. Procedure.**
753

754 (a) *Return of petition.* The petition for creation of the proposed
755 sidewalk district must be returned to the Director of Public Works
756 within 90 days after the Director of Public Works notifies the
757 applicant that the preparation of the estimate of costs and pro rata
758 costs for the project is complete; however, the Director of Public
759 Works has the discretion, for good cause shown, to extend the
760 time for the return of the petition an additional 30 days, for a total
761 of 120 days, when a request for such extension is made by the
762 applicant to the Director of Public Works before the expiration of
763 the original 90-day period.

- 764 (b) *Signatures.* No assessment shall be made against abutting
765 property, unless the same is consented to in writing by the owners
766 of 51 percent of the property abutting such improvements. Said
767 consent shall be deemed to have been given if the requisite
768 number of signatures of such abutting property owners is
769 included in the petition requesting the proposed sidewalks and the
770 creation of the assessment district.
- 771 (c) *Notice.* Upon the timely receipt of a petition containing the
772 required number of signatures, the Director of Public Works shall
773 cause the matter to be placed upon the City Council's public
774 hearing agenda for a hearing on the creation of the proposed
775 sidewalk district. The Director of Public Works or designee shall
776 cause a notice to be published in the City's legal organ or a
777 newspaper of general circulation in which the sheriff's
778 advertisements are published at least once ten days prior to the
779 date of said hearing, which notice shall give a brief description of
780 the subdivision in which the work is to be done, the nature of the
781 improvements to be made and the beginning and terminus of the
782 road or street upon which such improvements are to be made and
783 such notice shall set forth the time and place of the hearing.
- 784 (d) *Notification of decision.* Within 60 days of a final decision on the
785 petition by the City Council, the Director of Public Works or
786 designee shall notify by certified mail, return receipt requested,
787 each affected property owner of the decision of the City Council.
788 If the final decision is an approval of the petition, then the Public
789 Works Director shall notify each affected property owner by
790 certified mail, return receipt requested, of a good faith estimate of
791 the individual assessment. A final decision means the approval or
792 denial of the petition by the City Council.

793
794

Sec. 23-162. Funding.

- 795 (a) *Assessment.* Each owner of property abutting the sidewalks shall
796 be assessed a share of the cost to be funded by the district, which
797 cost shall be added to the ad valorem property taxes for each
798 owner as provided in this section. No assessment shall be made
799 against abutting property, unless the same is consented to in
800 writing by the owners of 51 percent of the property abutting such
801 improvements. Abutting shall mean adjacent to, contiguous with,
802 or adjoining.
- 803 (b) *Pro rata costs.* Each property owner's share of the cost shall be
804 determined as follows: The total cost of the project shall be
805 calculated by the City, and the figure so derived shall be known
806 as the total project cost. The City shall next determine the linear
807 feet of sidewalk that was constructed. The total cost shall then be
808 divided by the total linear feet of sidewalk to derive the cost per
809 foot. Each property owner abutting the sidewalks shall then be
810 assessed an amount that equals the linear feet of street frontage
811 the property owner has multiplied by the cost per foot.
- 812 (c) *Payment.* The sidewalk tax assessment shall be paid by one of
813 two options, as follows:
- 814 (1) *Option 1.* The assessment may be paid in cash by the
815 property owner within 90 days of the mailing of the
816 assessment by the City. If paid under this option, the
817 assessment will not bear an administrative fee and no lien
818 shall be recorded against the property. Payment shall be
819 made to the City and delivered to the Public Works
820 Department. If payment is not made in full within 90 days
821 of the City's initial billing of the assessment, then payment
822 option two shall automatically take effect. Once option
823 two is in effect, the payment via option two shall be the

824 property owner's sole option until all assessment payments
825 are satisfied.

826 (2) *Option 2.* The assessment shall be paid in five equal
827 annual installments. Payment of each such assessment
828 shall be due and payable within 60 days from the mailing
829 by regular mail of a bill from the tax commissioner. In the
830 event option two is selected, the cost of processing,
831 administration, recording the lien, and satisfaction of such
832 lien shall be added to the assessment.

833 (d) *Notification to purchaser.* The property owner shall advise any
834 purchaser of its property within the sidewalk district of the
835 assessment. The property owner may conduct a proration of the
836 assessment with the purchaser. The City shall not be responsible
837 for the proration of the assessments between sellers and
838 purchasers nor shall the City be under any duty to notify any
839 purchaser of the existence or liability for the assessment.

840 (e) *Collection when not paid.* If the assessment is not paid when due,
841 the assessment shall be collected in the same manner as
842 delinquent ad valorem taxes and shall be subject to the same
843 interest and penalties.

844 (f) *Lien.* The assessment shall constitute a lien against the property
845 and shall be recorded by the tax commissioner in the lien records
846 of the clerk of the county superior court.

847 (g) *Processing fee.* The fee for processing and administration of this
848 option shall be established by the Public Works Department and
849 approved by the City Council.

850

851 **Section 2:**

852

853 1. It is hereby declared to be the intention of the Mayor and City Council that all
854 sections, paragraphs, sentences, clauses and phrases of this Ordinance are and

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

855 were, upon their enactment, believed by the Mayor and City Council to be fully
856 valid, enforceable and constitutional.

857
858 2. It is hereby declared to be the intention of the Mayor and City Council that, to the
859 greatest extent allowed by law, each and every section, paragraph, sentence,
860 clause or phrase of this Ordinance is severable from every other section,
861 paragraph, sentence, clause or phrase of this Ordinance. It is hereby further
862 declared to be the intention of the Mayor and City Council that, to the greatest
863 extent allowed by law, no section, paragraph, sentence, clause or phrase of this
864 Ordinance is mutually dependent upon any other section, paragraph, sentence,
865 clause or phrase of this Ordinance.

866
867 3. In the event that any phrase, clause, sentence, paragraph or section of this
868 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional
869 or otherwise unenforceable by the valid judgment or decree of any court of
870 competent jurisdiction, it is the express intent of the Mayor and City Council that
871 such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent
872 allowed by law, not render invalid, unconstitutional or otherwise unenforceable
873 any of the remaining phrases, clauses, sentences, paragraphs or sections of the
874 Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
875 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid,
876 constitutional, enforceable, and of full force and effect.

877
878 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict
879 herewith are hereby expressly repealed.

880
881 5. The within ordinance shall become effective upon its adoption.

882
883 6. The provisions of this Ordinance shall become and be made part of The Code of
884 the City of Stonecrest, Georgia, and the sections of this Ordinance may be
885 renumbered to accomplish such intention.

886
887 **SO ORDAINED AND EFFECTIVE** this the ____ day of _____,
888 2019.

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STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

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Attest:

Megan P. Reid, City Clerk

Approved:

Jason Lary, Sr., Mayor

As to form:

Winston A. Denmark, City Attorney



COUNCIL MEETING AGENDA ITEM

SUBJECT: 2019 Community Development Block Grant (CDBG) Application

- | | | |
|--|-------------------------------------|---|
| <input type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input checked="" type="checkbox"/> OTHER |

Council Meeting: 04/22/2019

SUBMITTED BY: Julian Jackson

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

APPLICATION

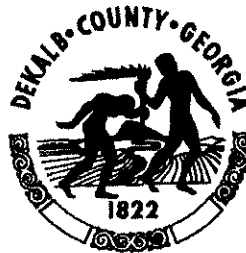
for

2019 Community Development Block Grant (CDBG)

This program is funded by the
United States Department of Housing and Urban Development (HUD)

Application Due Date
April 30, 2019
1:00 P.M.

Applications will not be accepted after the deadline



Michael Thurmond
Chief Executive Officer

BOARD OF COMMISSIONERS

Nancy Jester, District 1; Jeff Rader, District 2;

Larry Johnson, District 3; Steve Bradshaw, District 4; Mereda Davis Johnson, District 5;

Kathie Gannon, District 6; Lorraine Cochran-Johnson, District 7

Administered by: DeKalb County Community Development Department
Allen Mitchell, Director

Byron K. Campbell, Grants & Administrative Manager

Melvia Richards, Housing Manager

Braunwin Camp, Planning & Neighborhood Services Manager

750 Commerce Drive – Suite 401, Decatur, Georgia 30030

Telephone: (404) 371-2727 / Facsimile: (404) 371-2462

www.dekalbcountyga.gov

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SECTION I

Please thoroughly read the Application Guidelines, a separate document, prior to completing the application.

A. General Information

Please complete each item in as much detail as possible.
(If needed, attach additional pages; include the question number being addressed)

1. Agency Name _____ Tax ID (EIN)# _____
This should be the legal name as stated on agency's seal or charter.) DUNS # _____

2. New Program Returning Program (Funded in 2018 by DeKalb County Community Development /CDBG Grant)

3. Date of Agency Incorporation _____ Agency's Fiscal Year: _____

4. Previous Agency Name (if changed since last fiscal year): _____

5. Address**
Street, City, State & Zip Code

** Should street address remain **CONFIDENTIAL**? Yes No

6. Mailing Address**
(If different from street address)

7. Agency Phone: _____ FAX: _____

8. Website: _____

9. Agency Director's Name: _____ Title: _____

10. Director's Phone Number: _____ Email: _____

11. Agency Contact Person Name: _____ Title: _____

Phone: _____ Email: _____

12. Please check the DeKalb County Commission District (s) in which your services will be provided:

Nancy Jester, District 1

Jeff Rader, District 2

Larry Johnson, District 3

Steve Bradshaw, District 4

Mereda Davis Johnson, District 5

Kathie Gannon, District 6

Lorraine Cochran-Johnson, District 7

3. Provide an organizational chart showing how the proposed program and staff fit into the organization. Also provide job descriptions and resumes for staff positions involved with the proposed activity. Provide as **Exhibit B**.
4. Provide a complete listing of CURRENT members of the Board of Directors. Listing must include name, address, phone number, office held, term of office and business/community affiliation. Provide as **Exhibit C**.
5. Is any staff or Board members the beneficiaries of any Agency funds/services? Yes No
If yes, please explain in detail below.

6. Do any family relationships by blood or marriage exist between staff and/or Board members? Yes No If yes, please explain in detail below.

7. As part of your fundraising strategy: (1) describe how the Board of Directors participate in fundraising activities and the percentage of the Board that gives financially to the Agency, (2) describe any training on roles and responsibilities attended by the Agency Board of Directors within the last 12 months and, (3) provide minutes of the last four (4) Board meeting. Provide as **Exhibit D**.

8. Annually, how many DeKalb County residents does your Agency serve? _____

9. Are there any Federal, State, or Local Government licensing requirements or operating permits that the agency must adhere to or any inspections that the agency must pass to operate? Yes No
If yes, provide a copy of license/permit as **Exhibit E**.

10. Is your Agency operating in compliance with applicable Local Government Codes and Ordinances (e.g. zoning, land use, safety, fire, or other requirements)? Yes No If No, please explain.

11. Are both Federal and State taxes current? Yes No
If No, please explain.

C. Project Description

1. Proposed project/activity title: _____
2. In two pages or less, provide a description of the proposed project or activity by answering the following:
(1) What you plan to do? (2) Who will the project impact? (3) What is the project duration? (4) Where will activities/projects occur? (5) How will project be implemented? (6) By whom the activities will be provided? (7) How many residents do you anticipate serving this year? **Provide as Exhibit F.**
3. Total 2019 CDBG funds requested \$ _____
4. Is your agency also applying for ESG (Emergency Shelter Grant Program)? Yes No
(Note: There is a separate application for ESG funds)
5. Project/activity address:
(If needed, attach additional page for more sites, please include the question number)

6. Does the Agency own the facility where the program will be held? Yes No
(Provide a copy of the lease or documentation of ownership as **Exhibit G**)
7. Is there a waiting list for the proposed program? Yes No How long is the waiting list? _____
Will CDBG funds for the proposed program help to eliminate the waiting list? Yes No

D. Consistency with Consolidated Plan Goals

National Goals and Objectives

1. HUD CDBG funding is restricted to activities that meet one of three primary **National Objectives** listed below. Based on your proposed project/activity, select the one which best reflects your objective.

- Benefit low- and moderate-income persons
- Prevention or elimination of slums or blight areas
- Meet an urgent need (Declared by President of the United States).

HUD CDBG funding is also restricted to activities that meet one of three primary **National Goals** listed below. Based on your proposed project/activity, select the one (1) goal which best reflects your anticipated objective.

- Decent Housing:** This program goal focuses on housing programs where the purpose of the program is to meet individual family or community needs.
- Create Suitable Living Environment:** This program goal relates to activities that are designed to benefit communities, families, or individuals by addressing issues in their living environments.
- Creating Economic Opportunities:** This program goal applies to the types of activities related to economic development, commercial revitalization, or job creation.

Consolidated Plan Goals

2. In meeting a National Objective and Goal, applicants are required to develop and demonstrate projects/activities that align with Consolidated Plan Goals. Based on the objective and goal of your proposed project/activity, in two pages or less, demonstrate how it supports the identified goal. Also include any supporting statistics or other factual information to support the importance of addressing the need, including any increases and/or improvement to services provided. Please explain in detail below.

Eligibility

3. To be eligible for CDBG funding, the project must meet the following National Objective: **Benefits low- and moderate (L/M) income persons.**

In order to be considered as benefiting low- and moderate income persons, an activity must fall into one of the categories below. Please check the applicable box for your project.

- At least 51% of the clientele served must be low- and moderate income persons;
- An activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate- income households;
- An activity designed to create or retain permanent jobs where at least 51% of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate-income persons.

Select the type of project for which you will be applying for funding

[Must select only ONE option]

Public Services

- | | |
|--|--|
| <input type="checkbox"/> Child care Services | <input type="checkbox"/> Homeownership assistance (Not Direct) |
| <input type="checkbox"/> Employment Training | <input type="checkbox"/> Legal Services |
| <input type="checkbox"/> Senior Services | <input type="checkbox"/> Services or facilities for homeless persons |
| <input type="checkbox"/> Subsistence Payments | <input type="checkbox"/> Services or facilities for persons at-risk |
| <input type="checkbox"/> Transportation Services | <input type="checkbox"/> Youth Services |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> Employment Training |

Economic Development Activity

- Revolving loan fund activities
- Microenterprise Business Development
- Technical Assistance for economic development or small business development
- Job Creation
- Other _____

Housing Related Activity

- | | |
|---|---|
| <input type="checkbox"/> Affordable housing | <input type="checkbox"/> Fair housing activities |
| <input type="checkbox"/> Tenant/Landlord counseling | <input type="checkbox"/> Predatory Lending/Foreclosure prevention |
| <input type="checkbox"/> Other _____ | |

E. Program Service/Activity, Outcomes, Output Indicators and Measurements

The Department of Housing and Urban Development (HUD) has developed an outcome performance measurement system for key HUD Housing and Community Development Programs. This system describes Performance Measurements as specific goals, outcomes and outputs. From the three HUD goals, outcomes and output indicators definitions listed below, please complete the following table by selecting the one (1) which best reflects your anticipated goal and outcomes. **Please refer to HUD's website for more information on HUD's requirements for Performance Measurements at: <http://www.hud.gov/offices/cpd/about/performance>.**

Goals		Outcomes	Output Indicators
<p>A. Decent Housing: This goal focuses on housing programs where the purpose of the program is to meet individual family or community needs.</p> <p>B. Create Suitable Living Environment: This goal relates to activities that are designed to benefit communities, families, or individuals by addressing issues in their living environments.</p> <p>C. Creating Economic Opportunities: This goal applies to the types of activities related to economic development, commercial revitalization, or job creation.</p>	<p>A. Availability/Accessibility: This outcome applies to activities that make services, infrastructure, public services, public facilities, housing, or shelter available or accessible to individuals, residents or beneficiaries.</p> <p>B. Affordability: This outcome applies to activities that provide affordability; it can include the creation or maintenance of affordable housing, basic infrastructure, or services such as transportation or day care to persons at lower cost than market rate.</p> <p>C. Sustainability: This outcome applies to activities aimed at improving communities or neighborhoods, helping to make them livable or viable through multiple activities or services that sustain communities.</p>	<p>Output indicators tell whether an outcome will occur.</p> <p>Each output should relate to the intended outcome/goal of the program activity or major service objective.</p> <p>Output (quantified) + Outcome + Activity/Major Service (description) + Goal. Combining these components summarizes the agency's activities, intended outcomes and purpose in a manner that quantifiably measures results.</p>	<p>E</p> <p>HOW MEASURED</p> <p>This is how indicators will be measured and what/who will be evaluated /surveyed</p> <p>1. Monitor families progress to transition out of homelessness 2. Evaluate children school report cards/progress reports</p>
<p>A. Major Service or Activity Provided (Performance Indicators)</p> <p>EXAMPLE: Childcare Services -- Provision of free childcare for homeless families</p>	<p>B. # of DeKalb Clients Served or # of Units</p> <p>150 Children/75 households</p>	<p>C. OUTCOMES</p> <p>This activity will lead to the following anticipated results</p> <p>1. Help expedite families transition from homelessness 2. Provide a healthy, & stable learning environment for children 3. Strengthen family unit</p>	<p>D. OUTPUT INDICATORS</p> <p># and % of clients/unit to achieve each outcome</p> <p>1. 100% of families will be allowed to pursue employment opportunities 2. 75% of children grades will improve</p>

... (Continued) Program Service/Activity, Outcomes, Output Indicators and Measurements

A. Major Service or Activity Provided (Performance Indicators)	B. # of DeKalb Clients Served or # of Units	C. OUTCOMES This activity will lead to the following anticipated results	D. OUTPUT INDICATORS # and % of clients/unit to achieve each outcome	E. HOW MEASURED This is how indicators will be measured and what/who will be evaluated /surveyed

F. Project Sustainability & Collaborations

1. List any linkage(s) between these proposed projects with other agencies (including other DeKalb County Departments) in which your agency coordinates services. Briefly identify the type of collaboration.

Agency and /or DeKalb County Departments	Type of Collaboration

2. Who are your strategic partners?

3. If you are a homeless provider, are you currently participating in the Pathways Community Network, the Continuum of Care, or the Tri-J?

Yes No N/A

4. How will your proposed services enhance existing services being provided by other agencies in your targeted area or population? How will it differ?

5. **In-Kind Contributions/Volunteer time** for proposed program.

List non-paid volunteer time and source of in-kind contributions received in 2018 and anticipated in 2019.

Year	Type of Volunteers/Contribution Source	Description	Value (\$)
In-kind Total			\$

G. Accessibility for Persons with Physical Disabilities

Federal regulations require that all facilities and/or services assisted with CDBG funds be accessible to the disabled, whenever feasible. Accessibility includes such things as entrance ramps; parking with universal logo signage, grab bars around commodes and showers, top of toilet seats between 17-19 inches from the floor. Drain lines under lavatory sink either wrapped or insulated, space for wheelchair maneuverability, accessible water fountains, access between floors (elevators, ramps, lifts), and other improvements needed to assure full access to funded facilities/programs, including the blind and deaf.

Will the completed project meet ADA standards for accessibility by the disabled? Yes No

If No, describe accessibility problems at program/activity site and methods to address them, including funding and timetable:

H. Employment and Client Participation

1. In your hiring practices, does your agency prohibit discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, or persons with disabilities who require alternative means for communication of program information?

Yes No If yes, how is this practice displayed to the public?

I. Organizational Capacity

1. Describe your agency's administrative systems by checking each item that exists within your agency's organizational structure:

	Yes	No
<input type="checkbox"/> Formal Personnel System - Are written procedures in place?		
<input type="checkbox"/> Financial Management System - Existence of written procedure		
<input type="checkbox"/> Staff Salary Tracking System - Are written procedures in place?		
<input type="checkbox"/> Audit System - Are formal written accounting procedures in place?		
<input type="checkbox"/> Recordkeeping System - Separate tracking for each funding source?		
<input type="checkbox"/> Security Systems - Are formal written cash management practices (Includes proper Security Measures in place)?		
<input type="checkbox"/> Filing System - Are hard copy files and computer records system w/ security backup in place?		
<input type="checkbox"/> Internal Monitoring/Evaluation System - Are procedures in compliance with Sarbanes-Oxley? Are written procedures in place?		
<input type="checkbox"/> Client Eligibility Verification - Are written procedures in place?		
<input type="checkbox"/> Client Demographic Data Collection and Report System		
<input type="checkbox"/> Procurement Policy - Are formal written procedures in place?		
<input type="checkbox"/> Client Grievance Policies - Are formal written procedures in place?		

SECTION II

Fiscal Management

(This Section is to be completed by all Applicants)

To complete Section II, Financial Information of the application go to DeKalb County website link Community Development Block Grant (CDBG) Application Fiscal Management, <https://www.dekalbcountyga.gov/community-development/sub-recipient-grant-application>. You are encouraged to provide additional pages to identify any financial facts not requested in this application that will assist Community Development in the evaluation of the application. If you need any assistance, please contact Byron Campbell at bkcampbell@dekalbcountyga.gov or at (404) 371-2467.

SECTION III

Capital Improvement and Economic Development Projects

DeKalb County Community Development Department has a list of approved projects in various stages of implementation and development. Currently, we are not accepting applications for Capital Improvement and Economic Development Projects.

However, we will consider specific projects that have non-recurring expenditures, leverage public/private dollars, promote future sustainability, create jobs, and promptly rejuvenate, restore and revitalize designated areas for future growth and development.

NOTE: Projects must be "shovel ready" or "ready to go".

SECTION IV

Agency Certification of Compliance for CDBG Application

The undersigned has prepared and submitted all the documents attached hereto. I certify to the best of my knowledge that all information contained is true and correct.

Executive Director Name (Print) _____

Executive Director Signature _____

Date _____

President or Secretary of the Board of Directors Name (Print) _____

President or Secretary of the Board of Directors Signature _____

Date _____

Note: If your agency is selected for funding, additional documentation may be requested. It is the responsibility of the Agency to insure that all Federal, State and Local requirements are met

For Office Use Only

Application Number	
Date Received	
Administrative Staff Processed	
Copies	
Minimum Threshold	
Attachments/Exhibits	
Notes	
Staff Assigned	

SECTION V

Application Submittal Checklist

(Check the box below **yes**, if document is provided and attached in the following order by Exhibits, all documents required for full submittal).

Exhibit A	<input type="checkbox"/> An overview of your organization, including a brief history and include recent accomplishments and achievements based on you objectives.
Exhibit B	<input type="checkbox"/> An organizational chart showing how the proposed program and staff fit into the organization. Also provide job descriptions and resumes for staff positions involved with the proposed activity.
Exhibit C	<input type="checkbox"/> A complete listing of CURRENT membership of the Board of Directors. Listing must include name, address, phone number, office held, term of office and business/community affiliation.
Exhibit D	<input type="checkbox"/> As part of your fundraising strategy describe how the Board of Directors participates in fundraising activities and the percentage of the Board that gives financially to the Agency. <input type="checkbox"/> Describe any training on roles and responsibilities attended by the Agency Board or Directors within the last 12 months. <input type="checkbox"/> Provide minutes of the last four (4) Board meetings.
Exhibit E	<input type="checkbox"/> Copy of Federal, State, or Local Government licensing and By-Laws
Exhibit F	<input type="checkbox"/> Project/Activity description in detail
Exhibit G	<input type="checkbox"/> Provide lease agreement/documentation of facility ownership
Exhibit H	<input type="checkbox"/> Audit with Management Letter (No older than 12 months)
Exhibit I	<input type="checkbox"/> 2 Years of the most recent financial statements
Exhibit J	<input type="checkbox"/> IRS Form 990 (No older than 12 months)
Exhibit K	<input type="checkbox"/> Copy of written financial procedures and responsibilities
Exhibit L	<input type="checkbox"/> Copy of approved Agency budget for current fiscal year
Exhibit M	<input type="checkbox"/> 501(c) 3 Certification from IRS



COUNCIL MEETING AGENDA ITEM

SUBJECT: Parks and Recreation IGA

- | | | |
|--|-------------------------------------|---|
| <input type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input checked="" type="checkbox"/> OTHER |
| | |) |

Council Meeting: 04/22/2019

SUBMITTED BY: Julian Jackson, Interim City Manager

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

**INTERGOVERNMENTAL AGREEMENT
FOR THE PROVISION OF PARKS SERVICES
AND FOR THE TRANSFER OF PARK PROPERTY**

**Between
DEKALB COUNTY, GEORGIA and
THE CITY OF STONECREST, GEORGIA**

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is entered into as of the _____ day of _____, 2019, by and between DeKalb County, Georgia ("County") and the City of Stonecrest, Georgia ("City") (collectively, County and City may be referred to herein as "Parties" or individually as "Party").

WHEREAS, the County is a constitutionally created political subdivision of the State of Georgia; and

WHEREAS, the City is a municipality created by the 2016 Georgia General Assembly pursuant to Senate Bill 208 (hereafter referred to as "SB 208"); and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions, including, but not limited to, the transfer of Park Property and the provision of Park Services as herein after defined.

NOW THEREFORE, in consideration of the following mutual obligations, the Parties agree as follows:

**ARTICLE 1
PURPOSE AND INTENT**

The purpose of this Agreement is to provide the terms by which (1) the County shall transfer the Park Property (as hereinafter defined) to the City; (2) the County shall provide services and activities, related to recreation, aquatic and summer programs; and maintaining and operating parks, playgrounds, pools, athletic fields, golf courses and recreational centers within the jurisdictional boundaries of the City in the manner provided by the DeKalb County Department of Parks, Recreation and Cultural Affairs (the "Park Services"); and (3) the County will transfer the responsibility of providing Park Services to the City.

**ARTICLE 2
TERM OF AGREEMENT**

2.1 The Parties agree that the term of this Agreement (the "Term") shall begin at 12:00 a.m. on May 1, 2019 and conclude at 12:00 a.m. on January 1, 2020, during or after the termination of which the parties may seek to renew or enter into a new agreement.

2.2 During the Term, the County, through its Department of Parks, Recreation and Cultural Affairs, shall be solely responsible for providing all Park Services within the boundaries of the City in a manner no less than provided to other park and recreation properties in the unincorporated areas of the County, until the date specified for each park property in Article 5 of this Agreement, or unless agreed to otherwise by the parties.

ARTICLE 3 COMPENSATION AND CONSIDERATION

3.1 The real property, and all improvements thereto, that is the subject of this Agreement is described in Exhibit "A" attached hereto (collectively, the "Park Property"). The Park Property, and all improvements thereto, shall be transferred and conveyed, subject to the provisions herein, in exchange for payment to the County in the amount of One-Hundred Dollars (\$100.00) per acre pursuant to O.C.G.A. § 36-31-11.1.

3.2 During the time in which Park Services are rendered by the County, the City agrees that the County shall remain entitled to impose and collect from the City's owners of taxable property ad valorem tax annually in the same manner and at the same rate that such tax is imposed and collected within the unincorporated portion of DeKalb County for Park Services. The County agrees to contribute to the City a portion of the total ad valorem tax revenue and for Park Services within the City during 2019, commensurate with the percentage of Park Services transitioned to the City before the end of the Term, upon receipt of such funds from the Tax Commissioner. The County further agrees to contribute to the City a portion of any bond revenue for Park Services or improvements within the City during 2019. Commencing January 1, 2020, the County shall not collect ad valorem taxes from any of the City's owners of taxable property for Park Services within the City.

3.3 As part of the conveyance of the Park Property, it is further agreed that:

- a. On May 1, 2019 or upon the successful completion of the title work and environmental reports required pursuant to O.C.G.A. 36-31-11.1(g), whichever is later, unless otherwise agreed to by the parties, the County agrees to convey the Park Property to the City pursuant to this Agreement and record the quitclaim deeds for each parcel of the Park Property following the purchase thereof in accordance with O.C.G.A. 36-31-11.1(g). All purchases shall be completed no later than January 1, 2020, unless the environmental reports required pursuant to O.C.G.A. 36-31-11.1(g) reveal the presence of hazardous materials.
- c. The City agrees to take over all Park Services for the Park Property no later than January 1, 2020 and agrees to waive and release any right to pursue or initiate any legal claims against the County which arises from January 1, 2020 forward related to alleged performance or failure to perform Park Services, except for the right to assert claims to enforce the terms of this Agreement. The County agrees to contribute to the City ad valorem tax revenue received for Park Services within the City during 2020 upon receipt of such funds from the Tax Commissioner.

- d. The County hereby agrees to operate and maintain the Park Property and related greenspace, open space and recreational facilities until the date specified for each park property in Article 5 of this Agreement. The Park Property shall be used and maintained pursuant to O.C.G.A. 36-31-11.1.
- e. Residents of the unincorporated area of the County shall have the same access to the Park Property as is allowed for residents of the City at the same cost charged to City residents, if any; and the same Park Services being provided on or related to the Park Property shall be made available to residents of unincorporated DeKalb County as made available to residents of the City, at the same cost charged to City residents, if any.
- f. The Parties agree that, whether or not recorded, the provisions and obligations in this Section shall continue as binding restrictive covenants upon the Parties after expiration or termination of this Agreement.

3.4 As to all Park Property herein, the City shall be solely responsible for identifying and conducting due diligence at the City's cost, including, but not limited to all surveys, environmental reports, and title searches.

3.5 The Parties agree that all public stormwater facilities, ponds, basins and dams located within the City (hereinafter, collectively the "Stormwater Systems") shall remain the property of the County as part of the County Stormwater System and shall require separate intergovernmental agreements to include easements for access and maintenance. In no event, however, shall the County be obligated to maintain, undertake or expend monies on the above Stormwater Systems except where required by law, mutual written consent or by separate agreement. As part of this transaction and conveyance, the City shall execute all access and easement documents requested by the County which are related to drainage, and utilities located on the Park Property, including, but not limited to a 20-foot easement on either side of the centerline of any water and sewer lines located on the Park Property which are currently being maintained by the County and for the future maintenance and replacement of such lines (collectively, the "Utility Easements").

**ARTICLE 4
DIRECTOR OF PARKS AND RECREATION**

For the park properties managed by the County during the Term, the County Parks Director will direct and manage the daily parks operations in the City and supervise the delivery of Park Services contracted for in this Agreement; provided, however, the County Parks Director shall confer with and receive input from the City Parks Director regarding the daily parks operations and delivery of Park Services contracted for in this Agreement. For the park properties managed by the City during the Term, the City Parks Director will direct and manage the daily parks operations in the City and supervise the delivery of Park Services; provided, however, the City Parks Director shall confer with and receive input from the County Parks Director regarding the daily parks operations and delivery of Park Services.

ARTICLE 5

SERVICES

5.1 The City will take over responsibility for providing Park Services pursuant to the Park Services transfer dates below and agrees to waive and release any right to pursue or initiate any legal claims against the County which arises from the Park Services transfer dates forward related to alleged performance or failure to perform Park Services, except for the right to assert claims to enforce the terms of this Agreement.

Park Services Transfer Dates

Chestnut Lakes Park	May 1, 2019
Everett Park	May 1, 2019
Panola Shoals PATH Trailhead	May 1, 2019
Browns Mill Recreation Center	May 1, 2019
Southeast Athletic Complex	May 1, 2019
Browns Mill Sports Field	June 3, 2019
Fairington Park	June 3, 2019
Salem Park	June 3, 2019
Gregory Mosely Park	June 3, 2019
Browns Mill Aquatic Center	September 30, 2019
Arabia Mountain Nature Preserve	To be later agreed upon by the Parties

5.2 For the park properties managed by the County during the Term, the County will provide Park Services to the City residents in no less than the same manner that they are provided to unincorporated DeKalb County in 2019. Such Park Services shall equal or exceed the Park Services provided by the County in 2019 within the area that comprises the territorial limited of the City.

5.3 Monthly reports regarding the Park Services provided by the County will be given to the City Parks Director in the manner given to the government of DeKalb County with respect to its parks and recreation centers in unincorporated areas of the County.

5.4 The Parties acknowledge that the City Parks Director does not have the authority to direct the activities of any employee of the DeKalb County Parks Department. The City Parks Director will discuss with the County Parks Director any concerns or issues arising during the Term regarding the scope of work contemplated under this Agreement.

ARTICLE 6 EQUIPMENT

The County agrees to provide DeKalb County parks personnel assigned to work within the City with all necessary equipment and motor vehicles in connection with this Agreement in order

to perform its Park Services, in accordance with applicable DeKalb County policies and procedures for Park Services. The County agrees to maintain said equipment and vehicles and to provide replacements as necessary during the Term.

ARTICLE 7 EMPLOYMENT STATUS

All County personnel assigned under this Agreement are and will continue to be employees of the County for all purposes, including but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

ARTICLE 8 RECORD KEEPING AND REPORTING

8.1 The County parks and recreation department is the central repository for all departmental records and makes available public records as defined by the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et seq.* During the Term, the County will continue to comply with the applicable provisions of the Georgia Open Records Act.

8.2 Except as limited by any provision of state or federal law, the City may request, review and access data and County records at a mutually agreed upon time to ensure compliance with this Agreement.

ARTICLE 9 TRANSITION

The Parties agree that ninety (90) days prior to the end of this Agreement, the City Manager and the Executive Assistant of the County will meet and confer to affect a smooth transition.

ARTICLE 10 TERMINATION AND REMEDIES

10.1 The City may terminate this Agreement with or without cause by giving thirty (30) days prior written notice to the County. If the City intends to terminate this Agreement for cause prior to the expiration of the term of this Agreement, the City must notify the County in writing, specify the basis for the termination and advise the County that the issue(s) must be cured to the City's reasonable satisfaction within a 30-day period.

10.2 The parties reserve all available remedies afforded by law to enforce any term of condition of this Agreement.

ARTICLE 11 NOTICES

All required notices shall be given by certified first class U.S. Mail, return receipt requested. The parties agree to give each other non-binding duplicate facsimile or electronic mail notice. Future changes in address shall be effective upon written notice being given by the City to the County Executive Assistant or by the County to the City Manager via certified first-class U.S. mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

If to the County: Executive Assistant
1300 Commerce Drive, 6th Floor
Decatur, Georgia 30030
Facsimile: _____
Electronic Mail: _____

With a copy to: County Attorney
1300 Commerce Drive, 5th Floor
Decatur, Georgia 30030
Facsimile: _____
Electronic Mail: _____

With a copy to: County Parks Director
DeKalb County, Georgia
DeKalb County Parks Department

Facsimile: _____
Electronic Mail: _____

If to the City: City Manager
City of Stonecrest
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038
Facsimile: _____
Electronic Mail: _____

With a copy to: City Attorney
City of Stonecrest
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038
Facsimile: _____
Electronic Mail: _____

With a copy to: Winston Denmark
City Attorney – City of Stonecrest
8024 Fair Oaks Court
Jonesboro, Georgia 30236

Facsimile: 770.471.9948
Electronic Mail:

ARTICLE 12
EXTENSION AND AMENDMENT OF AGREEMENT

This Agreement may be extended and/or amended at any time by mutual consent of the Parties so long as such extension and/or amendment is approved by official action of the City Council and approved by official action of the County governing authority.

ARTICLE 13
NON-ASSIGNABILITY

Neither party shall assign any of the obligations or benefits of this Agreement.

ARTICLE 14
ENTIRE AGREEMENT

This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement and supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon the City or the County. All parties must sign any subsequent changes in the Agreement.

ARTICLE 15
SEVERABILITY, VENUE AND ENFORCEABILITY

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any party institute suit concerning this Agreement, venue shall be in the Superior Court of DeKalb County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

**ARTICLE 16
BINDING EFFECT**

This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors.

**ARTICLE 17
MUTUAL WAIVER AND RELEASE**

17.1.1 The City hereby waives and releases, effective the date the City receives the quitclaim deed for the Park Property, any right to pursue or initiate any legal claims against the County related to the transfer and conveyance of the Park Property, except for the right to assert claims to enforce the terms of this Agreement. The City agrees never to file any demand, claim, interpleader, charge, lawsuit or any other legal proceeding with any court, arbitration forum or government agency asserting any matter, claim or cause of action that is settled or released by this Agreement.

17.2 The County hereby waives and releases, effective the date the City receives the quitclaim deed for the Park Property, any right to pursue or initiate any legal claims against the City related to the transfer Park Property, except for the right to assert claims to enforce the terms of this Agreement. The County agrees never to file any demand, claim, interpleader, charge, lawsuit or any other legal proceeding with any court, arbitration forum or government agency asserting any matter, claim or cause of action that is settled or released by this Agreement.

**ARTICLE 18
COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

SIGNATURES APPEAR ON THE FOLLOWING PAGES

IN WITNESS WHEREOF, the County and the City have executed this Agreement through their duly authorized officers.

This _____ day of _____, 20__.

DEKALB COUNTY, GEORGIA

ATTEST:

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

BARBARA H. SANDERS, CCC, CMC
Clerk of the Chief Executive Officer
and Board of Commissioners of
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

Director, DeKalb County Parks

TERRY G. PHILLIPS
Supervising Attorney

CITY OF STONECREST, GEORGIA

Jason Lary, Sr., Mayor

_____, Municipal Clerk

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

_____, City Manager

Winston Demark, City Attorney

Exhibit "A"

**List of
PARK PROPERTY**



COUNCIL MEETING AGENDA ITEM

SUBJECT: MOU for Youth Services (Summer Camp at Browns Mill Recreation Center)
 ORDINANCE POLICY STATUS REPORT
 DISCUSSION ONLY RESOLUTION OTHER

Council Meeting: 04/22/2019

DOCUMENTATION TO BE PROVIDED AS SOON AS AVAILABLE

TO BE SUBMITTED BY: Sean De Palma

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:



COUNCIL MEETING AGENDA ITEM

SUBJECT: Personnel Ordinance (Chapter 20)

- | | | |
|---|-------------------------------------|--|
| <input checked="" type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input type="checkbox"/> OTHER |

Council Meeting: 04/22/2019

SUBMITTED BY: Christa Freeman

PURPOSE: 1st Reading

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

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Appeal means a request by an employee to have a hearing pursuant to this chapter.

Applicant means any person who has filed an application in accordance with this chapter.

Appointment means the employment of an applicant for City service.

Available means an individual on a register for a class of positions willing to accept appointment to a particular position of that class.

Base rate of pay means that salary paid an employee excluding any incentive, longevity or other compensation.

Certification means referring a list of names of qualified applicants for appointment or promotion.

Class means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation may be applied to each position in the group; and which has been recognized as such in the classification plan approved.

Classified service means all positions under the merit system. Each position is assigned to a classification and carries that specific job code and an individual position number. Exempt positions are not in the classified service.

Compensatory time means that time which may be granted an employee as off time as compensation for time worked in excess of the standard workweek applicable to that employee.

Council means the merit system council.

Demotion means the reduction of a permanent or working test employee to a position of a lower class. For this purpose, a lower class means any class of positions having a maximum rate of pay lower than

68 the maximum rate of pay for the position in which the individual is
69 employed.

70 *Department* means the internal administrative unit established by
71 formal action of the Mayor and City Council.

72 *Department head* means any city employee designated as the
73 head or principal administrative officer of any department subject to the
74 provisions of this chapter. This includes the chief executive who shall be
75 considered the department head of department heads under the merit
76 system.

77 *Director* means the director of the merit system and personnel
78 administration department.

79 *Disciplinary action* means action taken for cause by the chief
80 executive officer or department head that results in suspension,
81 involuntary demotion or dismissal.

82 *Eligible* means an individual whose name appears on a register
83 for a particular class of positions and who is not otherwise barred from
84 consideration for appointment.

85 *Emergency appointment* means employment to fill an immediate
86 need, and that regular appointment methods cannot be followed.

87 *Employee* means an incumbent of a position, as hereinafter
88 defined.

89 *Examination* means the designated method of evaluating the
90 knowledge, skills and abilities of applicants for purposes of ranking and
91 selection. Such methods could include, but not limited to, written tests,
92 oral interviews, evaluations of education and experience, etc.

93 *Exempt position* means a position designated as being exempt
94 from the application of this chapter.

95 *Merit system* means the city merit system of personnel
96 administration of employees covered under the act.

97 *Minimum qualifications* mean those training, experience and
98 other requirements that qualify an applicant or employee to be
99 considered for examination and appointment.

100 *Overtime* means time wherein an employee is directed to continue
101 work in excess of the standard workweek for that position, as hereinafter
102 defined.

103 *Part-time employee* means any employee working on a
104 continuous basis at least twenty (20) hours but less than the standard
105 workweek, as hereinafter defined.

106 *Permanent status employee* means an employee who has
107 successfully completed his or her probationary period and has been
108 designated a permanent status employee by the department head and
109 approved by the merit system director.

110 *Position* means the duties, tasks and responsibilities which
111 comprise and constitute the work of an employee.

112 *Probation* means conditional employment; not regular; a trial or
113 working test period.

114 *Promotion* means the filling of a vacancy by appointing an
115 employee with permanent status to a position from a position of a lower
116 class.

117 *Protected classes* means minorities, females, handicapped, older
118 workers, and other classes designated by federal or state law for special
119 employment consideration.

120 *Public hearings* means a meeting of the merit system council
121 open to the public, held after at least five (5) days' notice has been given
122 thereof, at which time any interested party may appear and be heard.

123 *Public notice*, unless otherwise expressly stated, means a written
124 notice on a bulletin board accessible to the public during business hours,
125 and other publicity as may be deemed necessary by the merit system
126 council.

127 *Qualifying service* means all periods of city employment during
128 which an employee was eligible to accrue annual leave under this
129 chapter.

130 *Reallocation* means change in the pay grade assignment of a class
131 of positions.

132 *Reduction in force* means the termination of an employee due to
133 lack of work, lack of funds, abolishment of position, or for other material
134 changes in duties or organization, or appropriation of funds.

135 *Register* means an official list of persons who have successfully
136 competed in a merit system examination for a particular class of
137 positions.

138 *Roster of employees* means a listing of employees of the city
139 government which sets forth the name of each employee, the department
140 by which the employee is employed, the class title of the position held
141 by the employee, and the salary range assigned to the class title of the
142 position held by the employee.

143 *Salary adjustment* means any change in salary, resulting from
144 legislative or administrative action, and not constituting a salary
145 advancement, as hereinafter defined.

146 *Salary advancement* means an increase in salary based on merit
147 and length of service within the salary range prescribed for a particular
148 class of positions.

149 *Standard workweek* means that number of hours constituting the
150 full working time for a class of positions, as determined by a department
151 head and as approved by the Mayor and City Council.

152 *Standby time* means that time when employees are required to
153 leave work at their homes or with departmental officials where they may
154 be reached in case of an off-duty call-out.

155 *Temporary position* means a position created for a designated
156 period of time not to exceed six (6) months.

157 *Time-limited appointment* means employment to fill a position for
158 a period of time designated by programs authorized by Congress or the
159 state legislature.

160 *Transfer* means the filling of a vacancy by assigning a permanent
161 or working test employee from another position of the same or a
162 comparable class.

163 *Vacancy* means an unoccupied position that has been established
164 through a job analysis and official delegation of duties, which has been
165 properly allocated and adopted as part of the classification and pay plans,
166 and for which funds are available.

167 *Waiting time* means that period of inactivity while on duty spent
168 waiting for weather conditions to improve or contingency assignments to
169 be made.

170 **Sec. 20-2. Penalties for violation.**

171 Any employee under the merit system who willfully violates any
172 of the provisions of this chapter may be disciplined hereunder or may be
173 required to forfeit the employee's position, subject to the appeals
174 guidelines as set forth in article IX of this chapter.

175 **Sec. 20-3. Applicability.**

176 All positions, other than those exempt positions under this
177 chapter or law, shall be filled only in accordance with this chapter. All
178 departments under the merit system, as provided herein, shall administer
179 their personnel in accordance with this chapter. All positions, except
180 those listed as exempt, shall be collectively known as the classified
181 service. Nothing in this chapter shall be construed to conflict with any
182 state law or regulation that provides additional qualifications, duties or
183 compensation levels of any employee who is also subject to the
184 provisions of this chapter.

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Sec. 20-4. Exempt positions designated.

The provisions of this chapter shall not apply to any exempt position. The exempt positions are the following:

(1) Generally.

- a. City Manager
- b. Deputy City Manager
- c. City Clerk
- d. Community Development Director
- e. City Planner
- f. Code Enforcement Supervisor
- g. Chief Building Official
- h. Accounting Manager
- i. Procurement Specialist
- j. Communications Director

(2) Appointed official.

- a. Members of appointed city agencies, boards, commissions, and councils and the employees of the offices.

Sec. 20-5. Reserved.

Sec. 20-6. Duties of merit system and personnel administration director.

The duties of the merit system director shall be to:

- (1) Attend all meetings of the merit system council and act as secretary to the council.
- (2) Establish and maintain a listing of all employees of the board of commissioners, including merit and non-merit, which will set forth the names of employees, their class titles, their pay grades, their salaries or pay statuses, their employment statuses and other appropriate data deemed pertinent by the director.

- 216 (3) Select a staff of assistants in accordance with this chapter and to
217 assign and direct their work.
- 218 (4) Advise and consult with the department heads in the development of
219 a variety of training programs to improve performance of
220 employees at all levels as needed and to coordinate the planning and
221 scheduling of such training programs for efficient administration.
- 222 (5) Assist the department heads in the development of a system of
223 periodic performance appraisal of employees under the merit
224 system to be administered by the department heads.
- 225 (6) Make annual reports and such special reports as deemed advisable
226 regarding personnel administration under the merit system, and to
227 make recommendations for improvement therein.
- 228 (7) Be responsible for the preparation and maintenance of the
229 classification and compensation plans and, after consultation with
230 department heads, to prepare and present to the board for adoption,
231 class specifications and amendments thereto.
- 232 (8) Recommend amendments to this chapter and to cause all rules and
233 regulations to be published and copies thereof to be given to the
234 department heads and the board, and to maintain copies in the office
235 of the merit system department.
- 236 (9) Prepare for review and approval by the chief executive, job
237 classification and compensation, administrative procedures to be
238 followed by employees, department heads and other officials in
239 processing appeals and in carrying out other assigned
240 responsibilities under this chapter.
- 241 (10) Prepare annual budgets covering all the costs of operating the merit
242 system, for adoption by the board.
- 243 (11) Maintain all registers of eligible persons for appointment and to
244 make certification from such registers.

- 245 (12) Act as custodian of all records and properties in the office of the
246 merit system director.
- 247 (13) Make such regulations and other administrative memoranda as
248 deemed necessary, not inconsistent with this chapter, relative to
249 matters involved in the administration of this chapter.
- 250 (14) Be responsible for overseeing an equitable and uniform system of
251 discipline, administering the internal grievance and appeal
252 procedure and maintaining the centralized records and coordinating
253 the activities associated with appeals.

254 **Sec. 20-7. Adoption of rules, regulations.**

255 The chief executive shall adopt uniform rules and regulations
256 pertaining to city recruitment activities, applications for examination,
257 qualifications of applicants, administration of examinations, and all other
258 matters necessary to accomplish the purpose of this chapter.

259 **Sec. 20-8. Minutes of merit system council.**

260 The date, time and place of each meeting of the merit system council,
261 names of the councilmembers present, all official acts of the council and the votes
262 of each member except when the acts are unanimous and, when requested, a
263 councilmember's approval or dissent, with the reasons, shall be recorded in the
264 minutes. The director shall cause the minutes to be prepared and presented to the
265 council for approval or amendment. The adopted minutes, or a true copy thereof,
266 certified by the director, shall be open to public inspection, and copies of pertinent
267 sections thereof made available upon request to any department head or employee
268 affected thereby.

269 **Sec. 20-9. Record of appeal hearings.**

270 A verbatim account of an appeal hearing will not be transcribed, unless
271 requested by one (1) of the parties, and paid for by the requesting party. Either
272 party shall have the right to have the proceedings recorded by a court reporter at
273 the party's own expense.

274 **Sec. 20-10. Public records, confidential records.**

275 All merit system documents, records and information are the property of
276 Stonecrest, Georgia and shall remain confidential except when disclosure is
277 required by the Georgia Open Records Act or other law.

278 **Sec. 20-11. Access to records.**

279 The director shall have access to all departmental personnel records,
280 documents and papers in order to discharge the director's duties. The department
281 heads shall have access to such records as deemed pertinent by the director to
282 their department and the discharge of their duties. Performance rating reports shall
283 be accessible to the department head concerned, the director, the merit system
284 council, the Mayor and City Council and the employee involved. Such
285 performance reports may be reviewed by other individuals only for official
286 purposes on a need-to-know basis at the discretion of the director. The merit
287 system council shall have access to all records necessary to discharge its duties.
288 Other personnel information may be made available for official purposes at the
289 discretion of the director. Information which is obtained by employees in the
290 course of their official duties shall not be released or made available to anyone
291 other than employees charged with this responsibility as part of their official
292 duties.

293 **Sec. 20-12. Preservation of records.**

294 (a) The following records shall be preserved in the offices of the merit system
295 for the periods designated:

- 296 (1) Examination and testing records of appointees shall be kept
297 permanently. Examination and testing records of other applicants shall
298 be kept for one (1) year.
- 299 (2) Registers of certified eligibles shall be kept for one (1) year after
300 expiration.
- 301 (3) A copy of each test form used and validation procedures employed
302 shall be retained permanently.

303 (4) All other records related to examination and eligible lists, including
304 correspondence, applications and examination papers, shall be kept for
305 one (1) year.

306 (5) The employee's permanent personnel file shall be purged each three
307 (3) years to remove appraisals and other documents related to
308 performance, disciplinary actions and other materials over three (3)
309 years of age which are no longer needed in the operation of the merit
310 system.

311 (6) Personnel files of terminated employees shall be kept for three (3)
312 years.

313 (b) The above retention periods may be extended if required by federal or state
314 law.

315 (c) Records may be preserved in their original form or other duplicate form such
316 as microfilm, at the discretion of the director.

317 **Sec. 20-13. Position classification plan.**

318 (a) The classification plan provides a systematic arrangement and inventory of the
319 positions in the classified service. The plan groups the various positions into
320 classes with an appropriate title indicative of the range of duties and
321 responsibilities, and the types of work performed.

322 (b) The chief executive shall adopt rules and regulations for the implementation
323 and administration of the classification plan within the budget approved by the
324 Mayor and City Council.

325 **Sec. 20-14. Maintenance of registers.**

326 The chief executive shall adopt uniform rules and regulations pertaining to
327 the maintenance of registers, including procedures for determining the adequacy
328 of existing registers, the frequency of announcements of vacancies or
329 examinations, the abolishment of registers, and the establishment of registers.

330 **Sec. 20-15. Fillings of vacancies.**

331 All vacancies under the merit system must be filled either by probationary
332 appointment, promotion, demotion, transfer, emergency appointment,

333 reappointment, temporary appointment or part-time appointment. No vacancy
334 may be filled until a valid requisition is received by the director from a
335 department head.

336 **Sec. 20-16. Equal opportunity employment.**

337 (a) The city is an equal opportunity employer. This effort will be an ongoing
338 process. For affirmative action purposes, the director, in conjunction with
339 the affirmative action officer, may institute voluntary programs that will
340 facilitate this purpose and implement programs approved by the Mayor and
341 City Council.

342 (b) There shall be no discrimination against applicants or employees on the
343 basis of race, color, religion, sex, national origin, political affiliation or
344 opinion, age, handicap or other non-merit factors with regard to
345 appointment, promotion, demotion, dismissal, discipline, training or any
346 other aspect of personnel administration. This shall not prevent the
347 application of a particular requirement factor that is a bona fide
348 occupational qualification.

349
350 **Sec. 20-17. Political activities.**

351 (a) No person shall seek or attempt to use any political endorsement in
352 connection with any appointment to a position under the merit system.

353 (b) No person shall use or promise to use, directly or indirectly, any official
354 authority or influence, whether possessed or anticipated, to secure or
355 attempt to secure for any person an appointment or advantage in
356 appointment to a position under the merit system, or an increase in pay or
357 any other advantage in employment in this position for the purpose of
358 influencing the vote or political action of any person, or for any
359 consideration.

360 (c) No employee under the merit system shall be a candidate for nomination or
361 election to any elective public office, or take part in the management or

362 affairs of any political campaign, except to exercise the right as a citizen to
363 express an opinion privately and to cast a vote.

364 (d) Employees whose principal employment is in connection with an activity
365 which is financed in whole or in part by loans or grants made by the United
366 States or a federal agency are subject to the provisions of the Hatch Act.

367 **Sec. 20-18. Political soliciting.**

368 No employee under the merit system shall solicit or take part in soliciting
369 any assessment, subscription or contribution for any political organization or
370 purpose. Employees may make voluntary financial contributions to a political
371 party or organization or candidate.

372 **Sec. 20-19. Persons advocating overthrow of government prohibited
373 from employment.**

374 No person shall be employed under the merit system who advocates or has
375 ever advocated, or who is or who ever has been a member of any organization that
376 advocates the overthrow of the government of the United States by force or
377 violence.

378 **Sec. 20-20. Conflicts of interest.**

379 (a) No employee covered by the provision of this chapter shall:

- 380 (1) Engage in any business or transaction or have a financial interest or
381 other personal interest, direct or indirect, which is incompatible
382 with the proper discharge of official duties or which would tend to
383 impair independence of judgment or action in the performance of
384 official duties;
- 385 (2) Engage in or accept private employment or render services for a
386 private interest when such employment or service is incompatible
387 with the proper discharge of official city duties or would tend to
388 impair independence of judgment or action in the performance of
389 official duties;
- 390 (3) Disclose confidential information concerning the property,
391 governmental body or affairs of the city without proper legal

- 392 authorization, or use such information to advance the employee's
393 financial or other private interests or that of others;
- 394 (4) Participate in the negotiation or the making of any contract with any
395 business or entity in which the employee has a financial interest.
- 396 (5) Solicit contributions from another employee for a gift or donation to
397 an employee or elected official in a superior official position, or, if in
398 a superior position, accept a gift presented as a contribution from an
399 employee.
- 400 (6) Directly or indirectly solicit or accept any gift from a prohibited
401 source or any gift given because of the employee's official position.
- 402 (7) Directly or indirectly give, offer, promise, demand, seek, receive,
403 accept, or agree to receive anything of value to influence any
404 official act.
- 405 (8) Except as provided by law for the proper discharge of official duties,
406 directly or indirectly, give, offer promise, demand, seek, receive,
407 accept, or agree to accept anything of value for or because of any
408 official act performed or to be performed, or for or because of any
409 testimony given or to be given before an individual or other entity,
410 tribunal or proceeding authorized to hear evidence or take
411 testimony.
- 412 (9) Accept gifts from the same or different sources on a basis so
413 frequent that a reasonable person would be led to believe the
414 employee is using his/her public office for private gain.
- 415 (10) Accept a gift in violation of any local, state or federal statute.
- 416 (11) Accept vendor promotional training contrary to applicable
417 regulations, policies or guidance relating to the procurement of
418 supplies and services for the county.
- 419 (b) No employee shall receive any compensation, salary or supplementation of
420 his/her city salary, from any entity other than the city or as may be

- 421 contributed by law out of the treasury of any state, county, or municipality,
422 for his/her services to the city.
- 423 (c) No employee shall by his or her conduct give reasonable basis for the
424 impression that any person can improperly influence him or her or unduly
425 enjoy his or her favor in the performance of official acts or actions or that
426 he or she is affected unduly by the kinship, rank, position or association
427 with any person.
- 428 (d) No employee shall by virtue of his or her position with the city, directly or
429 indirectly attempt to influence the decision of any city employee who must
430 act to further any city procurement, policy, regulation, inspection or
431 transaction.
- 432 (e) No employee shall engage in or accept employment with or render services
433 for any private business or professional activity when such is adverse to and
434 incompatible with the proper discharge of his or her official duties.
- 435 (f) Employees shall not knowingly solicit or make solicited sales to other
436 employees who are junior in classification or position, or to the family
437 members of such employees, within or without work hours. In the absence
438 of coercion or intimidation, this does not prohibit the sale or lease of an
439 employee's noncommercial personal or real property or commercial sales
440 solicited and made in a retail establishment during non-working hours. This
441 prohibition includes, without limitation, the solicited sale of insurance,
442 stocks, mutual funds, real estate, cosmetics, household supplies, vitamins,
443 and other goods or services. Both the act of soliciting and the act of selling
444 as a result of soliciting are prohibited. In both cases, however, a solicitation
445 is necessary for a violation to occur. While the standard prohibits a superior
446 from making a solicited sale to a subordinate or to the subordinate's family,
447 sales made because a subordinate approaches the superior and requests the
448 sale to be made are not prohibited, absent coercion or intimidation by the
449 superior. The posting of an advertisement in accordance with county
450 policies does not constitute solicitation for purposes of this subsection.

- 451 (g) Where an employee knows that a particular matter involving specific parties
452 is likely to have a direct and predictable effect on the financial interest of a
453 member of his/her household, or knows that a person with whom he/she has
454 a covered relationship is or represents a party to such a matter, and where
455 the circumstances would cause a reasonable person with knowledge of the
456 relevant facts to question his/her impartiality in the matter, the employee
457 should not participate in the matter.
- 458 (h) An employee shall be disqualified for two (2) years from participating in any
459 particular matter in which a former employer is a party or represents a party.
460 The two-year period of disqualification begins to run on the date the
461 employee left the employ of the former employer.
- 462 (i) An employee may accept unsolicited gifts from a person or entity other than
463 a prohibited source, having an aggregate market value of forty dollars
464 (\$40.00) or less per source per occasion, provided that the aggregate market
465 value of individual gifts received from any one source under the authority of
466 this paragraph shall not exceed one hundred twenty dollars (\$120.00) in a
467 calendar year.
- 468 (j) Definitions.
- 469 1) *Covered relationship.* An employee has a covered relationship with:
470 a. A person with whom the employee has or seeks a business,
471 contractual or other financial relationship that involves other
472 than a routine consumer transaction;
473 b. A person who is a member of the employee's household, or who
474 is within the third degree of relationship with of the employee;
475 c. A person for whom the employee's spouse, parent or child is
476 serving or seeking to serve as an officer, director, trustee,
477 general partner, agent, attorney, consultant, contractor or
478 employee;

- 479 d. Any person for whom the employee has, within the last year,
480 served as officer, director, trustee, general partner, agent,
481 attorney, consultant, contractor or employee; or
482 e. An organization, other than a political party, in which the
483 employee is an active participant.
- 484 2) *Direct and predictable effect* means a particular matter will have a
485 direct effect if there is a close causal link between any decision or
486 action to be taken in the matter and any effect on a financial interest.
487 An effect may be direct even though it does not occur immediately. A
488 particular matter will not have a direct effect on a financial interest,
489 however, if the chain of causation is contingent upon the occurrence of
490 events that are speculative or that are independent of, and unrelated to,
491 the matter. A particular matter will have a predictable effect if there is
492 a real, as opposed to a speculative, possibility that the matter will
493 affect a financial interest. It is not necessary, however, that the
494 magnitude of the gain or loss be known, and the dollar amount of the
495 gain or loss is immaterial.
- 496 3) *Former employer* includes any person or entity which the employee
497 served as an officer, director, trustee, general partner, agent, attorney,
498 consultant, contractor or employee.
- 499 4) *Gift* includes any gratuity, favor, discount, entertainment, trip,
500 hospitality, loan, forbearance, or other item having monetary value. It
501 includes services as well as gifts of training, transportation, local
502 travel, lodgings and meals, whether provided in-kind, by purchase of a
503 ticket, payment in advance, or reimbursement after the expense has
504 been incurred. A gift does not include:
505 a. Modest items of prepared food and refreshments, such as soft
506 drinks, or coffee and donuts, offered other than as part of a
507 meal;

- 508 b. Greeting cards and items with little intrinsic value, such as
509 plaques, certificates, and trophies, which are intended solely
510 for presentation;
- 511 c. Loans from banks and other financial institutions on terms
512 generally available to the public;
- 513 d. Social invitations from persons or entities, other than
514 prohibited sources. An employee may accept food,
515 refreshments and entertainment, not including travel or
516 lodgings, at a social event attended by several persons where
517 the invitation is from a person or entity that is not a prohibited
518 source and no fee is charged to any person in attendance.
- 519 5) *Imputed interests* means the financial interests of the following
520 persons will serve to disqualify an employee to the same extent as if
521 they were the employee's own interests:
- 522 a. The employee's spouse/domestic partner;
- 523 b. The employee's child;
- 524 c. An organization or entity which the employee or his/her
525 spouse serves as officer, director, trustee, general partner or
526 employee; and
- 527 d. A person with whom the employee is negotiating for or has an
528 arrangement concerning prospective employment.
- 529 6) *Market value* means the retail cost the employee would incur to
530 purchase the gift. An employee who cannot ascertain the market
531 value of a gift may estimate its market value by reference to the
532 retail cost of similar items of like quality. The market value of a gift
533 of a ticket entitling the holder to food, refreshments, entertainment,
534 or any other benefit shall be the face value of the ticket.
- 535 7) *Particular matter* encompasses only matters that involve
536 deliberation, decision, or action that is focused upon the interests of
537 specific persons, or a discrete and identifiable class of persons. The

- 538 particular matters covered by this subpart include, but are not
539 limited to, a judicial or other proceeding, application, request for a
540 ruling or other determination, contract, claim, controversy, charge,
541 accusation or arrest.
- 542 8) *Personal and substantial* means the direct and active supervision of
543 the participation of a subordinate in the matter. To participate
544 substantially means that the employee's involvement is of
545 significance to the matter. Participation may be substantial even
546 though it is not determinative of the outcome of the particular
547 matter. However, it requires more than official responsibility,
548 knowledge, perfunctory involvement, or involvement on
549 administrative or peripheral issues. A finding of substantiality
550 should be based not only on the effort devoted to a matter, but also
551 on the importance of the effort.
- 552 9) *Prohibited source* means any person or entity who:
- 553 a. Is seeking official action by the employee or the employee's
554 department;
 - 555 b. Does business or seeks to do business with the city or the
556 employee's department;
 - 557 c. Conducts activities regulated by the employee or the
558 employee's department;
 - 559 d. Has interests that may be substantially affected by
560 performance or nonperformance of the employee's official
561 duties; or
 - 562 e. Is an organization having a majority of its members as
563 described in paragraphs (j)(9)a. through d. of this section.
- 564 10) A gift is *solicited or accepted* because of the employee's official
565 position if it is from a person other than an employee and would
566 not have been solicited, offered, or given had the employee not
567 held the status, authority or duties associated with his/her county

- 568 position. A gift which is solicited or accepted indirectly includes a
569 gift:
570 a. Given with the employee's knowledge and acquiescence to
571 his/her parent, sibling, spouse, child (included adopted and
572 step-children), or dependent relative because of that person's
573 relationship to the employee, or
574 b. Given to any other person, including any charitable
575 organization, on the basis of designation, recommendation, or
576 other specification by the employee.
- 577 11) *Third degree of relationship.* The following persons are relatives
578 within the third degree of relationship: great-grandparent,
579 grandparent, parent, uncle, aunt, brother, sister, child, grandchild,
580 great-grandchild, nephew or niece.
- 581 (12) *Vendor promotional training* means training provided by any
582 person or entity for the purpose of promoting its products or
583 services. It does not include training provided under a county
584 contract or by a contractor to facilitate use of products or services
585 it furnishes under a city contract.
- 586 (h) Any employee who violates the provision of this section shall be guilty of
587 misconduct and subject to appropriate disciplinary action, including
588 immediate dismissal.

589 **Sec. 20-20.1. Financial disclosure reports.**

590 The mayor, member of city council, city manager, assistant city manager,
591 city clerk, department heads, deputy, assistant and associate department
592 heads/directors and economic development department personnel, shall file
593 annually with the city clerk a report disclosing the sources of any income,
594 whatever its nature, in excess of one thousand dollars (\$1,000.00) derived from
595 any one (1) source for the proceeding calendar year. Such report shall be filed on
596 or before April 30 of each year for the prior calendar year in a format determined
597 by the director of finance. Failure of any such person to file such disclosure

- 598 statement shall be reflected in the minutes of the next regularly scheduled meeting
599 of the board of commissioners following the April 30 deadline, with a copy of the
600 list of such persons presented to the chairperson of the Stonecrest Ethics
601 Committee for appropriate action. The reports shall be considered public
602 documents upon filing. Each report shall contain the following information:
- 603 (1) The source of each of the following items received or accrued during the
604 preceding calendar year by such person reporting or his/her spouse, including
605 the name and address of the source:
- 606 a. Any income for services rendered of one thousand dollars (\$1,000.00)
607 or more;
 - 608 b. Any interest or dividend income of one thousand dollars (\$1,000.00) or
609 more;
 - 610 c. Reimbursement for expenses of one thousand dollars (\$1,000.00) or
611 more in each instance;
 - 612 d. Honoraria from a single source in the aggregate amount of five
613 hundred dollars (\$500.00) or more, except as otherwise reported under the
614 state statute covering financial disclosure statements;
 - 615 e. Any gift in the aggregate amount or value of five hundred dollars
616 (\$500.00) or more from any single source received during the preceding
617 year.
- 618 (2) The name, address and type of organization in which the person reporting or
619 his/her spouse is an officer, director, partner, proprietor, or employee, or serves
620 in any advisory capacity from which income of one thousand dollars (\$1,000.00)
621 or more was derived.
- 622 (3) Each creditor, including the name and address, to whom the person reporting or
623 his/her spouse was indebted for a period of ninety (90) consecutive days or more
624 during the preceding calendar year in an amount of seven thousand five hundred
625 dollars (\$7,500.00) or more, except for retail installment debt, or the purchase or
626 sale or real property.

- 627 (4) Failure to file a financial disclosure report, as required by this section, may result
628 in the referral of such violation to the Stonecrest Ethics Committee for punitive
629 action, or may result in disciplinary action, including dismissal.

630 **Sec. 20-21. Disposition of special fees and rewards.**

631 Special fees and rewards received by any employee by reason of the
632 performance of any act required of such employee by the city and such
633 employee's duties, whether paid by an individual or by a public authority, shall be
634 deemed the property of the city and no employee shall accept for private use and
635 benefit this fee or reward.

636 **Sec. 20-22. Full-time service; outside employment.**

637 The city shall be entitled to the full-time services of all
638 employees whose positions are on a full-time basis. All outside
639 employment must be approved in advance by the department head. No
640 outside employment which interferes with the employee's scheduled city
641 work time shall be allowed, nor shall any outside employment be
642 allowed which may create a conflict, or apparent conflict, between
643 private interest of the individual and official city duties and
644 responsibilities.

645 **Sec. 20-23. Physical examination.**

646 Before entering employment and as often as the head of the department
647 may deem necessary for the performance of work assigned, an applicant or
648 employee shall undergo a physical examination by a licensed physician to
649 determine the physical fitness of the employee for the job sought or duty assigned.
650 Such examination shall be paid for by the city. The standard of physical fitness
651 requirements related to job duty shall be established by each department head
652 with due consideration given to the duties to be performed. Before becoming
653 effective, such physical standards shall be submitted to and approved by the
654 director and shall be furnished to the physician conducting the physical
655 examination. No otherwise qualified handicapped individual shall be excluded
656 from city employment solely by reason of handicap, unless such handicap

657 prohibits such individual from performing job-related duties or places such
658 handicapped person or city employee in unsafe conditions likely to result in
659 bodily injuries to the handicapped person or other city employee. If a city
660 employee does not agree to submit to a physical examination, such refusal shall
661 be grounds for dismissal, suspension or leave without pay.

662 **Sec. 20-24 – 20-40. Reserved.**

663 **ARTICLE II. COMPENSATION PLAN.**

664
665 **Sec. 20-41. Salary increases.**

666 A salary increase shall not be considered as an automatic and routine right
667 due an employee. All salary increases shall be based upon quality and quantity of
668 work as reflected by performance appraisal and other recorded ratings, giving due
669 consideration to length of service.

670 **Sec. 20-42. Holiday pay.**

671 All full-time employees shall be paid for a normal workday for each legal
672 holiday established by Mayor and City Council. Part-time employees shall be paid
673 the pro rata part of a normal workday based on hours per day normally worked.
674 Temporary employees, whether part-time or full-time, are not eligible for holiday
675 pay. Employees required to work on a holiday shall be paid the regular day's pay.
676 In addition, they may be given comparable time off at a subsequent date not later
677 than twelve (12) months following the holiday or, upon approval of the city
678 manager or assistant city manager, may be paid for the holiday at a straight-time
679 rate.

680 **Sec. 20-43. Quality pay increase.**

681 A quality pay increase is a pay increase equivalent to a step
682 increase available to permanent full-time employees whose performance
683 is of such superior quality above that ordinarily found in the type of
684 position concerned that special pay recognition is warranted.

685 **Sec. 20-44. Longevity pay.**

686

687 Longevity pay is a benefit to employees for continued service to
688 the city. Permanent employees shall receive additional compensation
689 based upon satisfactory completion of successive years of service to
690 begin after completion of eight (8) years of service. The method of
691 compensation, as set forth in the administrative procedures to the
692 personnel code, shall be determined by the Mayor with approval of
693 funding by the City Council.

694 **Sec. 20-45. Separation pay.**

695 (a) *Annual leave payout.* Upon separation from employment with the
696 city, an employee who has completed at least six (6) months but
697 less than ten (10) years of qualifying service may receive pay for
698 accumulated unused annual leave up to a maximum of thirty (30)
699 days at the employee's regular rate of pay. An employee who has
700 completed at least ten (10) years of qualifying service may, upon
701 separation from employment with the city, receive pay for
702 accumulated unused annual leave up to a maximum of forty-five
703 (45) days at the employee's regular rate of pay. No payment shall
704 be made upon separation from employment for any amount of
705 accumulated unused sick leave.

706 (b) *Annual leave payout; death of employee.* Upon the death of a
707 permanent employee, the beneficiary of such employee shall be
708 paid for accumulated unused annual leave and any other final pay
709 and allowances in the manner of other separations as indicated
710 above.

711 (c) *Temporary and emergency employees.* The appointment of any
712 person as a temporary or emergency employee shall be
713 automatically terminated upon the expiration of the maximum
714 period of time that the person can be so employed. No further
715 payment for services shall continue beyond the termination date.

716 **Sec. 20-46. Hazardous duty pay.**

717 Extra pay, as authorized in the city's compensation plan, shall be
718 granted: to any employee qualified as a helicopter pilot, having
719 appropriate and current Federal Aviation Administration licensing and
720 medical certificates for the type of helicopters operated by the police
721 department, and designated and serving in a position permitting active
722 piloting duty on county-owned or county-leased aircraft; to any
723 employee qualified as a bomb technician, having the appropriate
724 certification from the Redstone Arsenal Missile and Munitions School
725 and designated and serving in a position requiring active bomb disposal
726 duty for the city; and to any employee qualified as a member of the
727 special weapons and tactical unit, having advanced and extensive
728 training and required certifications in the use of chemical munitions,
729 explosive devices, automatic and specialized weapons, and related
730 equipment.

731 **Sec. 20-47. Employee suggestion program.**

732 The employee suggestion program is established as a benefit
733 program to compensate employees for suggestions that improve city
734 operations, reduce costs, improve productivity and working conditions
735 and/or improve employee morale. Employees can earn monetary
736 payment for suggestions that are adopted and result in tangible savings
737 (measurable, quantifiable cost savings or increase in county revenue) or
738 intangible savings (have an overall benefit but cannot be measured in
739 dollars). The method of compensation, as set forth in the administrative
740 procedures to the personnel code, shall be determined by the mayor with
741 approval of funding by the city council.

742 **Sec. 20-48. Acting status pay.**

743 Subject to approval by the mayor in accordance with procedures
744 established by the mayor and city council, an employee appointed to
745 serve in an acting status in a position with a higher pay classification
746 shall receive compensation at the next pay step that would afford the

747 employee at least a five (5) percent pay increase for any time served in
748 such acting status beyond sixty (60) days consecutively. Acting pay shall
749 not be paid for more than nine (9) months without approval of mayor and
750 city council. For purposes of this section, an employee shall be deemed
751 to be appointed to serve in an acting status when such appointment is
752 made in writing by the department head, is submitted through the merit
753 system director to the mayor, and is approved by the mayor. An acting
754 appointment may only be made to a duly established position which is
755 vacant.

756 **Sec. 20-50. Continuance of life, health and dental insurance while on**
757 **leave of absence.**

758 City officers and employees may continue their group life, group
759 health and dental benefits insurance, if they so desire, while on leave of
760 absence from the employ of the city, provided that such leave of absence
761 is granted for one of the following reasons:

- 762 (1) Military leave of absence.
- 763 (2) Maternity leave of absence.
- 764 (3) Sick leave of absence.
- 765 (4) Court leave of absence.
- 766 (5) Family and medical leave of absence.
- 767 (6) Approved leave of absence.
- 768 (7) As required by state or federal law.

769 **Sec. 20-51. Family and domestic partnership benefits.**

770 As part of a city officer's or employee's compensation, the city
771 may provide for group life, group health and dental insurance benefits
772 for an employee's legal spouse, and children, as provided for in the
773 insurance plan documents. As part of a city officer's or employee's
774 compensation, the city may provide for group life, group health and
775 dental benefits for a person declared as the officer's or employee's
776 domestic partner under Article X of this chapter. Any employee who

777 receives insurance coverage for a domestic partner shall notify the
778 employee benefits division within ten (10) days of any change in or
779 termination of the domestic partnership. Any employee who fraudulently
780 obtains coverage for a person who is not a spouse, child, or a domestic
781 partner, as defined under Chapter 20, Article X, shall reimburse the city
782 for all costs involved in providing such coverage and be subjected to
783 penalties as provided by the laws of the State of Georgia and the County
784 of DeKalb.

785 **Sec. 20-52. Limitation of liability for benefits.**

786 Nothing in this chapter shall create any broader, greater, different
787 or other benefits than that provided in the contract of insurance or group
788 plan, and the city shall not be liable for any life, health or dental benefits
789 beyond that provided by the insurance contract or group plan.

790 **Sec. 20-53 – 20-65. Reserved.**

791 **ARTICLE III. CERTIFICATIONS AND APPOINTMENTS.**

792
793
794 **Sec. 20-66. Generally.**

795 When the department head chooses to fill a vacancy, the
796 department head may elect to fill the position through any of the methods
797 of making appointments established under this chapter or administrative
798 regulations. The mayor shall adopt rules for the certification of eligibility
799 on the register and the appointment to fill vacancies, temporary and
800 emergency appointments to permanent positions, emergency positions
801 and reappointment.

802 **Sec. 20-67. Time-limited appointments.**

803 Time-limited appointments may be made to positions established
804 for special programs or projects normally anticipated as being longer
805 than six (6) months but not permanent in nature. Programs or projects
806 requiring this type of appointment will normally be mandated by a

807 federal or state program implemented for a specific purpose such as
808 training, retraining or rehabilitation. Appointments may be made through
809 competitive or noncompetitive procedures according to the program
810 requirements.

811 **Sec. 20-68. Review of discrimination charge.**

812 Any applicant who believes unjust discrimination has been
813 exercised in any phase of the pre-employment process because of race,
814 color, religion, national origin, sex, political affiliation, or opinion, age,
815 sexual orientation, or handicap may appeal to the mayor and city council.
816 Such charge must be filed in writing within one hundred eighty (180)
817 days after the occurrence of the alleged discriminatory action, and must
818 include the date, time, place, name(s) and specific charge of
819 discrimination. The mayor and city council shall investigate the alleged
820 discriminatory action, and the mayor and council's decision shall be
821 binding.

822 **Sec. 20-69. Employment of relatives.**

823 a) The employment of relatives within the same department (as defined
824 in this Code section 20-69) wherein there is a direct or indirect
825 supervisory/subordinate relationship is prohibited. For purposes of
826 this Code section, direct or indirect supervisory/subordinate
827 relationship shall mean regular assignment in the line of supervision
828 or chain of command, and shall exclude temporary assignment of less
829 than five (5) consecutive business days.

830 b) "Department" solely for purposes of this Code section 20-69 shall
831 mean the departments of the city, except that the following bureaus
832 and divisions shall be considered separate "departments" for purposes
833 of this Code section:

- 834 (1) Police bureau;
835 (2) Fire bureau;
836 (3) Emergency medical services;

- 837 (4) Animal control division;
838 (5) Development division;
839 (6) Fleet maintenance division;
840 (7) Roads and drainage division;
841 (8) Water and sewer division;
842 (9) Sanitation division;
843 (10) Any bureau or division designated by the mayor as a separate
844 "department" for purposes of this Code section.
- 845 c) The term "relatives" shall mean:
- 846 (1) Father, mother, daughter, step-daughter, son, step-son,
847 brother and sister of the whole blood or of the half-blood,
848 grandparent, grandchild, first cousin, aunt, uncle, nephew
849 and niece.
850 (2) Husband, wife, mother-in-law, father-in-law, sister-in-law,
851 brother-in-law, son-in-law, and daughter-in-law.
852 These relationships shall include those arising from adoption.
- 853 d) The limitation on employment or promotion of relatives specified in
854 this Code section shall apply to the continued employment of
855 persons where the referenced relationships commence subsequent
856 to their employment. This section shall apply only to filling of
857 vacancies by promotion, hiring, transfer from separate
858 departments (as defined in this Code section) and reappointments
859 made on or after the effective date of this section. If an appropriate
860 transfer cannot be arranged, the less senior employee shall resign
861 or will be terminated from employment unless the more senior
862 employee chooses to transfer or resign.
- 863 e) Seniority for purposes of this Code section shall mean total length
864 of employment in positions covered by the City Merit System.

865 f) Nothing in this Code section shall be interpreted to prohibit
866 employment of relatives in different departments, as defined in
867 this Code section.

868 **Secs. 20-70 – 20-80. Reserved.**

869
870 **ARTICLE IV. VETERAN'S PREFERENCE.**

871
872 **Sec. 20-81. Generally.**

873 All candidates and competitors for positions under the merit
874 system (including veterans and their spouses) must meet the minimum
875 requirements for the position sought, and successfully pass the total
876 examination prescribed, if any. Veteran's preference points, if any, shall
877 not be used to raise an otherwise unqualified candidate to a qualified
878 level, nor do veteran's preference points exempt those entitled to them
879 from examination.

880 **Sec. 20-82. Addition of points to rating – Able-bodied veterans.**

881 (a) Any veteran who has served on active duty as a member of the
882 Armed Forces of the United States for a period of more than one
883 hundred eighty (180) days (not counting service under an initial
884 period of active duty for training under the six (6) months' reserve
885 or National Guard programs), any portion of which service
886 occurred during a period of armed conflict in which any branch of
887 the Armed Forces of the United States engaged, whether under
888 United States command or otherwise, and who was honorably
889 discharged shall be entitled to and shall have five (5) points added
890 to his or her passing score on any examination for employment in
891 any position under the merit system.

892 (b) Notwithstanding the one hundred eighty-day minimum active duty
893 requirement of subsection (a) of this section, the five-point
894 preference granted to veterans under said subsection shall apply to

895 any member of the National Guard or armed forces reserve who
896 served on active duty for:

897 (1) Any length of time during any portion of the time the Armed
898 Forces of the United States were engaged in Operation
899 Desert Shield or Operation Desert Storm if such service
900 occurred in an area of imminent danger as defined by the
901 United States Department of Defense as follows:

- 902 a. The Persian Gulf;
- 903 b. The Red Sea;
- 904 c. The Gulf of Oman;
- 905 d. The portion of the Arabian Sea that lies north of ten
906 (10) degrees north latitude and west of sixty-eight (68)
907 degrees east longitude;
- 908 e. The Gulf of Aden; and
- 909 f. The total land area of Saudi Arabia, Kuwait, Iraq,
910 Yemen, Oman, Bahrain, Qatar, and the United Arab
911 Emirates; or

912 (2) Any length of time during a period of war or armed conflict
913 in which any branch of the Armed Forces of the United
914 States was engaged after Operation Desert Shield and
915 Operation Desert Storm, whether under United States
916 Command or otherwise.

917
918 **Sec. 20-83. Same – Disabled veterans.**

919 Any veteran who qualifies for a preference as provided in section
920 20-82 in this article and has at least ten (10) percent service-connected
921 disability as rated and certified by the United States Department of
922 Veterans Affairs shall be entitled to and shall have ten (10) points added
923 to his or her passing score on any examination for employment in any
924 position under the merit system. This ten-point preference shall be in lieu

925 of, not in addition to, any other similar preference accorded by this
926 article or federal or state law.

927 **Sec. 20-84. Spouse of disabled or deceased veteran.**

928 (a) The spouse of a veteran who qualifies for a preference as provided
929 in section 20-82 in this article shall be entitled to and shall have
930 five (5) points added to his or her passing score on any
931 examination for employment in any position under the merit
932 system if the spouse of the veteran is qualified for the merit
933 system position sought, and if the veteran has a one hundred (100)
934 percent disability that disqualifies him or her from employment.

935 (b) The spouse of a veteran, who if living would qualify for a
936 preference as provided in section 20-82 of this article, shall be
937 entitled to and shall have five (5) points added to his or her
938 passing score on any examination for employment in any position
939 under the merit system if the spouse of the veteran is qualified for
940 the position sought and the veteran is deceased.

941 **Sec. 20-85. Appropriate consideration.**

942 (a) In the event that a scored examination is not required to qualify for
943 a particular merit system position, "appropriate consideration" may
944 be given to all candidates and competitors for that merit system
945 position who qualify for a veteran's preference under this article.

946 (b) "Appropriate consideration" means that:

947 (1) A candidate who qualifies for a veteran's preference in this
948 article and meets the minimum requirements for the merit system
949 position sought is entitled to have his or her qualifications
950 presented to the relevant department head or appointing authority
951 for consideration;

952 (2) A candidate who qualifies for a veteran's preference in this
953 article may be given preference in appointment to a position
954 under the merit system if his or her qualifications for the position

955 sought are equivalent to those of the best qualified non-veteran
956 applicant for the position.

957 **Sec. 20-86. Extent of preference.**

958 The veteran's preferences established by this article are confined
959 to entrance to the city's service, and do not apply in the case of
960 examinations for or consideration for promotions.

961 **Sec. 20-87. Preferential appointment not mandatory.**

962 The appointment of a candidate who qualifies for a veteran's
963 preference is not mandatory, even if his or her qualifications are
964 equivalent to those of the best qualified non-veteran applicant for the
965 position.

966 **Sec. 20-88. Appointment discretionary.**

967 The appointment of a candidate who qualifies for a veteran's
968 preference is within the discretion of the department head. The
969 department head may select another qualified candidate (who is not
970 entitled to the veteran's preference) whose name has been certified. If
971 this occurs, the director shall return the name of the candidate who
972 qualifies for a veteran's preference to the register for further
973 consideration.

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Secs. 20-89 – 20-100. Reserved.

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ARTICLE V. PROBATIONARY STATUS.

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Sec. 20-101. Purpose.

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983

The probationary period shall be considered an integral part of the
selection process. All employees appointed or promoted to a position in

984 the city's classified service shall be required to satisfactorily complete
985 the probation period prior to achieving permanent status.

986 **Sec. 20-102. Duration.**

987 The first six (6) months of on-the-job service in a position to
988 which an employee has been appointed or promoted under the provisions
989 of article III covering appointments shall constitute the probation period.
990 The director may fix a different length for the probation period as it
991 applies to positions of one (1) or more classes. The period shall not be
992 fixed at less than three (3) months, nor more than twelve (12) months.
993 The length of the probation period shall be the same for all positions in a
994 class.

995 **Sec. 20-103. Time counted.**

996 Only time in pay and active work status shall be counted toward
997 completion of the probation period. Employees in probation status who
998 are absent on leave-without-pay, or who are absent for reasons under
999 workers' compensation or disability leave, shall be required to complete
1000 the amount of time on the job specified for the class to which they are
1001 appointed.

1002 **Sec. 20-104. Conditions prerequisite to permanent status.**

1003 Supervisors of probationary employees should evaluate those
1004 employees periodically during the probation period. Whether formal or
1005 informal procedures are used, it is the responsibility of the supervisor to
1006 point out areas of deficiency and inform the employee in the correct and
1007 expected manner to perform the job. It shall be the responsibility of the
1008 department head to obtain a statement in writing from the proper
1009 supervisor to the effect that the services of each employee appointed for
1010 an initial appointment probation period have or have not been
1011 satisfactory and that the employee is or is not recommended to be
1012 retained. The statement shall contain an appraisal of the value of the
1013 employee's service upon the employee performance evaluation form. The

1014 department head shall obtain this statement prior to the completion of the
1015 probation period, and make a recommendation to the director. No
1016 probation employee shall be considered to have attained permanent
1017 status as an employee under the merit system until certified by the
1018 director. If the employee is not certified as a permanent status employee,
1019 the department head shall notify the employee in writing in advance of
1020 the date on which the employee's services are to be terminated, and
1021 transmit a copy to the director.

1022 **Sec. 20-105. Probation in promotional position.**

1023 The department head shall have the same responsibility to assure
1024 evaluation of employees in promotional probation status as the
1025 department head has in initial appointment probation status. If it is
1026 determined that the employee is unsuitable for the position, the
1027 department head shall return the employee to the position previously
1028 occupied if it is vacant. If not vacant, the department head shall confer
1029 with the director relative to placement of the employee in a comparable
1030 class of positions for which the employee meets the requirements. If such
1031 placement is not feasible, the employee's name shall be placed on the
1032 reemployment register. The employee shall receive written notification,
1033 prior to the action, stating the reasons for the action. A copy shall be
1034 given to the director.

1035

1036

1037

Secs. 20-106 – 20-120. Reserved.

1038

1039

ARTICLE VI. PROMOTION, TRANSFER AND DEMOTION

1040

1041

Sec. 20-121. Procedures generally.

1042

1043

The city manager shall adopt administrative procedures for the filling of a vacancy by selection on a competitive basis of a permanent

1044 employee, and for transfers and demotions. Selection shall be made by
1045 the department head and reported to the director who will notify the
1046 applicant.

1047 **Sec. 20-122. Promotion.**

1048 No employee shall be promoted unless such employee has
1049 permanent status and the employee's last recorded performance appraisal
1050 is average or above. Although not eligible to qualify for a promotional
1051 position which is to be filled from present county employees only, a
1052 probation employee is eligible to apply for any city position which is
1053 being filled by open competitive examination. A probation period is
1054 required for an employee who is promoted.

1055 **Sec. 20-123. Transfer – Generally.**

1056 A vacancy may be filled by the transfer of a permanent or
1057 probation employee from another position of the same class or a
1058 comparable class subject to the limitations of this chapter.

1059 **Sec. 20-124. Same – From position of same class.**

1060 A permanent or probation employee in a position may be
1061 transferred to any vacancy of the same class. Where the employee has
1062 been placed in a position through a procedure involving selective
1063 certification, the employee shall not be transferred to any other position
1064 for which selective certification on the same basis is not justified until
1065 the employee has completed the probation period or the employee's name
1066 on the register has been reached through regular certification.

1067 **Sec. 20-125. Same – From comparable class.**

1068 A permanent or probation employee may be transferred to a
1069 comparable class if the director has certified that the minimum
1070 qualifications or training/education and experience specified for the class
1071 of the vacancy are met. If a performance test is required for regular
1072 appointment to the vacant position, and the employee to be transferred
1073 has not passed the required performance test for the class, then the

1074 employee must be certified on a test similar to and as extensive as the
1075 regular performance test.

1076 **Sec. 20-126. Demotion – Generally**

1077 An employee who is demoted shall retain the same employment
1078 status, except that the employee's rate of pay shall be reduced to the step
1079 in the pay range assigned to the lower position that is at least the
1080 equivalent of one (1) step in the pay plan. If the demotion is non-
1081 disciplinary, and if the employee's present salary does not exceed the
1082 maximum of the new range, the director may, upon recommendation of
1083 the department head, approve a pay step equal to the employee's former
1084 salary.

1085 **Sec. 20-127. Same – Procedure; reasons.**

1086 A permanent or probation employee may be demoted to a lower
1087 class for which the employee meets the requirements for reasons relative
1088 to job performance. When an initial appointment probation employee is
1089 demoted, the employee shall continue the probation period as if the
1090 original appointment had been to the position of the lower class. A
1091 permanent or probation employee may request appointment to a lower
1092 class, and the department head may make the demotion subject to the
1093 limitations applicable to transfers. A department head may demote a
1094 permanent or probation employee when a shortage of work or funds, the
1095 abolition of a position, or other material change in duties or organization
1096 necessitates the action.

1097 **Secs. 20-128 – 20-140. Reserved.**

1098 **ARTICLE VII. PERFORMANCE APPRAISAL.**

1099 **Sec. 20-141. Administration of appraisal system.**

1100
1101 Each department head, in consultation with the director, shall
1102 develop and administer a system of performance appraisal to give a fair
1103

1104 and objective assessment of each employee's job performance. All
1105 appraisal (evaluation) forms and procedures shall be approved by the
1106 director prior to official use.

1107 **Sec. 20-142. Performance appraisal of supervisors.**

1108 A supervisor's performance appraisal shall include an evaluation
1109 of the use of performance appraisals with employees to improve their
1110 performance. Supervisors shall be evaluated as to their effectiveness in
1111 the equal opportunity and affirmative action policies of the city.

1112 **Secs. 20-143 – 20-160. Reserved.**

1113 **ARTICLE VIII. ATTENDANCE AND LEAVE.**

1114 **Sec. 20-161. Hours of work.**

1115
1116 (a) The standard workweek for full-time employees shall generally be
1117 forty (40) hours; however, due to the requirements of certain positions,
1118 this standard may vary. Specific hours of work shall be set by each
1119 department head with the concurrence of the director and the approval of
1120 the city manager. In any event, specific hours of work and compensation
1121 for overtime shall be in compliance with the provisions of the Fair Labor
1122 Standards Act. Time worked in excess of the standard workweek, which
1123 is approved by the department head in advance or in cases of emergency
1124 as determined by the department head, shall be credited as overtime. In
1125 computing hours worked for overtime purposes, annual and sick leave
1126 and holidays shall be excluded. Overtime shall be accrued or
1127 compensated at the rate of one and one-half (1½) times the regular rate.
1128 Compensatory time at the rate of one and one-half (1½) hours for every
1129 hour worked in excess of the applicable standard workweek may be
1130 given to employees eligible for overtime compensation in lieu of cash
1131 compensation.
1132

1133 (b) Eligible law enforcement, emergency medical, fire and seasonal
1134 employees may accrue up to four hundred eighty (480) hours of
1135 compensatory time before overtime compensation must be paid in cash.
1136 All other employees eligible for overtime compensation may accrue up
1137 to two hundred forty (240) hours. Compensatory time may be utilized by
1138 the employee with prior approval of the department head under the same
1139 procedures as apply to annual leave as set forth in section 20-165,
1140 subsection (e). For employees eligible for overtime compensation,
1141 accrued balances must be paid to the employee at termination at a rate
1142 not less than the average regular rate of pay over the last three (3) years
1143 of employment or the final rate of pay, whichever is higher.

1144 (c) Employees exempt from overtime compensation may be granted
1145 compensatory time at an hour-for-hour rate at the discretion of the
1146 department head. If granted, such compensatory time must be used
1147 within one (1) calendar year of the date granted in accordance with
1148 procedures as apply to annual leave as set forth in section 20-165,
1149 subsection (e). Overtime exempt employees are not eligible to receive
1150 cash compensation for unused balances.

1151 **Sec. 20-162. Transfer of leave benefits.**

1152 When a permanent or working test employee is transferred to
1153 another department, the department receiving the employee shall assume
1154 responsibility for this employee's unused accumulated sick and annual
1155 leave.

1156
1157 **Sec. 20-163. Sick leave.**

1158 (a) City employees, except temporary and emergency employees, are
1159 eligible for sick leave benefits as earned from the date of employment.
1160 Sick leave shall accrue for full-time employees at the rate of one (1) day
1161 per month or its proportional equivalent (see section 20-165 for annual
1162 leave accrual rate) and an additional one-half day's sick leave or

1163 proportional equivalent thereof (see section 20-165 for annual accrual
1164 rate) will accrue on June 30 and December 31 of each year. Part-time
1165 employees shall accrue sick leave at the rate of one-half day a month and
1166 an additional one-quarter day's leave will accrue on June 30 and
1167 December 31 of each year. An employee who starts work before the
1168 sixteenth of a month shall earn sick leave for that month, but if the
1169 employee starts work on or later than the sixteenth of the month, sick
1170 leave accrual will be determined by the hours worked by the end of the
1171 month. No sick leave shall accrue for an employee under conditions as
1172 set forth in section 20-165, subsection (b). No accrual shall be permitted
1173 for an employee on leave without pay, workers' compensation or
1174 disability leave. When an employee shall have accumulated thirty (30)
1175 days of sick leave by the end of the last pay period in November, such
1176 employee may be paid in cash each year by December 25 for one-fourth
1177 of that year's unused sick leave accumulated beyond the thirty (30) days,
1178 and the other three-fourths beyond the thirty (30) days shall be added to
1179 the sick leave accumulation of such employee. Accrued but unused sick
1180 leave shall be cumulative for succeeding years.

1181 (b) Both probationary and permanent status employees who are
1182 eligible for sick leave with pay shall be granted this leave for the
1183 following reasons:

1184 (1) Personal illness or physical incapacity and doctor or dentist
1185 appointments of the employee, employee's spouse, children living
1186 in the same household, or serious illness of spouse, children or
1187 parents as defined in the Family and Medical Leave Act of 1993.

1188 (2) Enforced quarantine of the employee in accordance with
1189 community health regulations.

1190 (c) An employee on sick leave shall inform the employee's immediate
1191 supervisor of the fact and the reason therefor within the time established

1192 by the department head, and failure to do so may be cause for denial of
1193 sick leave with pay for the period of the absence.

1194 (d) A medical certificate signed by a licensed physician may be
1195 required by the department head to substantiate a request for sick leave
1196 for any of the following:

1197 (1) Any period of absence consisting of three (3) or more
1198 consecutive days.

1199 (2) Sick leave of any duration if absence from duty recurs
1200 frequently or habitually, provided the employee has been notified
1201 in writing that a certificate will be required.

1202 (3) To support the use of family and medical leave and
1203 unscheduled annual leave when sick leave has been exhausted.

1204 **Sec. 20-164. Holidays.**

1205 (a) The city will observe ten (10) paid holidays per year. These are:
1206 January 1, New Year's Day.

1207 Third Monday in January, Martin Luther King's birthday.

1208 Third Monday in February, George Washington's birthday.

1209 Last Monday in May, Memorial Day.

1210 July 4, Independence Day.

1211 First Monday in September, Labor Day.

1212 November 11, Veteran's Day.

1213 Fourth Thursday in November, Thanksgiving Day.

1214 Friday immediately following Thanksgiving Day.

1215 December 25, Christmas Day.

1216 (b) Whenever a legal holiday occurs on Saturday, the previous Friday
1217 will be observed. Whenever a legal holiday occurs on Sunday, the
1218 following Monday will be observed.

1219 (c) Any employee who is required to work the holiday may be allowed
1220 to take a day off at a subsequent date no later than twelve (12) months
1221 following the holiday or, upon the approval of the chief executive or the

1222 chief executive's designee, may be paid for the holiday at a straight-time
 1223 rate.

1224 **Sec. 20-165. Vacation (annual) leave.**

1225 (a) *[Vacation accrual.]* Vacation (annual) leave with pay for employees whose
 1226 normal work schedule consists of a forty-hour workweek shall accrue as per
 1227 the following:

Qualifying Service (years)	Accrual per month (hours)	Annual accumulation (days)
Less than 5 years	10	15
5 years up to 10 years	12	18
10 years up to 15 years	14	21
15 years up to 20 years	16	24
20 years and over	18	27

1228 Those employees whose regularly scheduled average workweek exceeds forty
 1229 (40) hours shall accrue vacation (annual) leave hours at a rate proportionate to the
 1230 designated hours of work according to the following formula:
 1231

Scheduled		Normal		
Average		accrual for		
Hours		40-hour/week		proportional
per week		based on		leave accrual
	×	years of service	=	rate
40				

1232 (b) *[Exceptions.]* Notwithstanding the provisions of subsection (a):

1233 (1) Temporary and emergency employees shall not accrue annual leave.
 1234

- 1235 (2) Part-time employees shall accrue annual leave at one-half the rate shown.
 1236 (3) No annual leave shall accrue while an employee is on leave without pay,
 1237 workers' compensation or disability leave.
 1238 (4) No annual leave shall accrue when, due to an unexcused absence, an
 1239 employee works less than seventy-five (75) percent of the scheduled hours
 1240 in a pay period.
 1241 (c) *[Use of accrued leave.]* An employee shall not be entitled to use any part of
 1242 accumulated annual leave until the employee has worked six (6) months.
 1243 Accrued but unused annual leave at the end of any year (starting with 2011)
 1244 shall be accumulated for succeeding years up to a maximum per the
 1245 following (based on a forty-hour workweek):

Qualifying Service (years)	Annual Maximum Carryover (Days)	Annual Maximum Carryover (Hours)
Less than 10 Years	30	240
10 Years and Over	45	360

1246 Employees whose regularly scheduled average workweek exceeds forty (40)
 1247 hours shall carry over vacation (annual) leave hours at a rate proportionate to the
 1248 designated hours of work in accordance with the formula in subsection (a). Annual
 1249 leave accumulated over the maximum amount that may be carried over to the next
 1250 year shall be converted to sick leave and added to the employee's accumulated sick
 1251 leave balance for the next year.
 1252

1253 (d) *[Scheduling leave.]* Annual leave shall be scheduled in advance and requires
 1254 the approval of the department head; vacation schedules shall be arranged to
 1255 provide the least possible disruption of department work programs. Annual
 1256 leave can be used for emergency situations when approved by the department
 1257 head. Annual leave, to the extent the purpose for such leave qualifies for
 1258 leave under the Family and Medical Leave Act of 1993 (FMLA), will be
 1259 counted against the employee's FMLA leave entitlement.

- 1260 (e) *[Unused sick leave.]* At the beginning of each year, an employee shall be
1261 credited with one (1) day of annual leave for each fifty (50) days of unused
1262 accrued sick leave the employee had on December 31 of the previous year.
- 1263 (f) *Transition to new annual maximum carryover.* To move employees from the
1264 2011 carryover limits to the new 2012 carryover limits, the rollover process
1265 will be handled in two (2) steps as follows. First, any amount of accumulated
1266 annual leave that exceeds the prior sixty-day maximum at the end of 2011
1267 shall be converted to sick leave, per previous procedures. Second, any
1268 remaining annual leave exceeding the new 2012 carryover limit shall be
1269 converted to sick leave unless the employee elected to place it into an annual
1270 leave reserve account. That election must be made in writing by the employee
1271 and received by the director no later than January 2, 2012. If an employee
1272 does not make a timely election, all of the employee's accumulated annual
1273 leave not carried over into 2012 shall be converted to sick leave. All
1274 accumulated annual leave that is converted into sick leave pursuant to this
1275 subparagraph shall be converted on an hour-for-hour basis and added to the
1276 employee's accumulated sick leave balance for 2012. Accumulated annual
1277 leave that is placed into an annual leave reserve account may be used as
1278 annual leave if the employee's accumulated annual leave is otherwise
1279 exhausted and the employee's department head authorizes such use.
- 1280 (g) *Annual leave payout for employees who have reserve account annual leave at*
1281 *separation.*
- 1282 (1) *Payment for reserve account annual leave.* An employee who has
1283 accumulated annual leave left in his/her annual leave reserve account at
1284 separation shall receive pay for such leave at the employee's last 2011
1285 pay rate.
- 1286 (2) *Payment for accumulated unused annual leave outside the employee's*
1287 *reserve account; limitations on such payment.* In addition to payment for
1288 any remaining reserve account annual leave, an employee may receive
1289 pay for accumulated unused annual leave outside his/her reserve account

1290 at separation, subject to the limitations in subsection 20-45(a) of this
1291 chapter and subject to the additional limitation that no employee may
1292 receive pay for more than sixty (60) days combined total of accumulated
1293 unused annual leave under subsections (1) and (2) of this subsection (g).

1294 **Sec. 20-166. Leave of absence without pay.**

1295 Leave of absence without pay for a period not to exceed six (6)
1296 consecutive months may be granted to any employee with the approval of the
1297 department head. Any leave of absence for a period in excess of six (6)
1298 consecutive months shall be at the discretion of the city manager. Valid reasons
1299 for leave without pay shall include, but not be confined to, the following: those
1300 reasons required under the Family and Medical Leave Act of 1993, educational
1301 or training enrichment, and military leave.

1302 **Sec. 20-167. Military leave.**

1303 (a) An employee who is a member of the National Guard or an organized
1304 military reserve of the United States will be allowed leave of absence with
1305 pay to participate in ordered military duty or training for a period
1306 consistent with state law.

1307 (b) An employee, other than emergency or temporary, who leaves
1308 employment with the county for military service with the United States
1309 shall have reemployment rights upon successful completion of such
1310 service, consistent with federal law.

1311
1312 **Sec. 20-168. Court leave.**

1313 An employee serving on a permanent, probationary or temporary basis
1314 shall be entitled to leave of absence from duties, without loss of pay or time and
1315 without effect on service rating, on all days during which the employee is
1316 subpoenaed by any court, federal, state or political subdivision thereof, to serve
1317 as a juror or witness.

1318 **Sec. 20-169. Maternity Leave.**

1319 Maternity leave shall be granted to merit system employees in compliance
1320 with applicable administrative procedures and the Family and Medical Leave
1321 Act of 1993. Time for beginning and ending of maternity leave shall be certified
1322 by the employee's doctor. Maternity leave shall consist of the following: use of
1323 any accumulated sick leave, annual leave and/or leave of absence without pay as
1324 prescribed in sections 20-163, 20-165, 20-166 and 20-170.

1325 **Sec. 20-170. Family and medical leave.**

1326 Family and medical leave shall be granted to those employees eligible and
1327 pursuant to the Family and Medical Leave Act of 1993 and the administrative
1328 procedures.

1329 **Sec. 20-171. Donation of leave time.**

1330 Any permanent employee who has been employed with the City for a
1331 minimum of twelve (12) months and who meets the eligibility criteria set forth
1332 in the administrative procedures promulgated by the mayor and city council may
1333 donate his/her accrued annual or sick leave to other city employees who have
1334 exhausted all accrued paid leave due to serious health conditions as defined by
1335 the mayor and city council in the administrative procedures.

1336 **Secs. 20-172 – 20-185. Reserved.**

1337
1338 **ARTICLE IX. DISCIPLINARY ACTION AND APPEALS**

1339
1340
1341
1342 **Sec. 20-186. Definitions.**

1343 The following words, terms and phrases, when used in this article, shall
1344 have the meanings ascribed to them in this section, except where the context
1345 clearly indicates a different meaning:

1346 *Delinquency* means violation of duty to the job requirements or county
1347 regulations.

1348 *Excessive absenteeism* means the habitual or patterned use of sick leave,
1349 or leave without pay, not supported by competent medical evidence or other
1350 proof of necessity. On a national average, employees experience two (2) to three
1351 (3) incidents of sick leave absence a year. Unsubstantiated absences, in excess of
1352 the following rule of thumb, may be an indication of excessive absenteeism:

1353 (1) Two (2) incidents in three (3) months.

1354 (2) Four (4) incidents in six (6) months.

1355 (3) Six (6) incidents in one (1) year.

1356 (An incident is a single day or consecutive series of absences.)

1357 *Flat fee reimbursement* means a flat fee to reimburse a permanent status
1358 employee for a portion of the attorneys' fees such employee actually paid to an
1359 attorney to represent the employee in a merit system appeal, where at the end of
1360 all available appeals (including any appeals by the employee or county in court),
1361 the employee's termination or demotion is reversed. The amount of such
1362 reimbursement shall be determined by a reimbursement schedule issued in
1363 writing by the county attorney annually and approved by official action of the
1364 governing authority. Under this schedule, the flat fee amount that an employee
1365 may be reimbursed for shall be less for an appeal of a demotion than an appeal
1366 for termination.

1367 *Incompetence* means the lack of qualities or the incapability of doing the
1368 job. Skills, knowledge and abilities are inadequate, unsuitable or obsolete to
1369 perform at minimally acceptable standards of performance.

1370 *Inefficiency* means nonproduction, wasteful use of time, energy or
1371 material, or repeated errors and mistakes.

1372 *Insubordination* means the unwillingness or refusal to perform assigned
1373 work, or deliberate failure to comply with written or verbal instructions from a
1374 proper supervisory authority.

1375 *Misconduct* means mismanagement of job responsibilities and county
1376 property, intentional improper behavior on the job, or deliberate violation of
1377 county regulations.

1378 *Negligence* means careless disregard for or lack of attention to job-
1379 related matters.

1380 **Sec. 20-187. Departmental rules.**

1381 The department head of any department may establish rules which are
1382 related to the work of that department.

1383 **Sec. 20-188. Disciplinary action.**

1384 Where the department head does not deem termination warranted, as
1385 hereinafter provided, the following disciplinary actions may be taken after due
1386 consideration has been given to the nature of the cause therefor:

1387 (1) Suspension. An employee may be suspended for a period of one (1) or
1388 more full days, not to exceed thirty (30) days in a twelve-month period.

1389 An employee may be suspended for an indefinite period of time pending
1390 the outcome of an investigation of a crime involving moral turpitude
1391 during which the employee may have the option of using accrued annual
1392 leave credits until they are exhausted. A suspension may be appealed as
1393 prescribed in section 20-193.

1394 (2) Demotion. An employee may be demoted to a lower class in which the
1395 employee meets the minimum qualifications.

1396 (3) Reserved.

1397 **Sec. 20-189. Dismissal.**

1398 A permanent status employee may be dismissed by a notice in writing
1399 giving the cause of the dismissal with sufficient particularity so that the employee
1400 may be on notice of the reason for discharge in order that the employee may fully
1401 explain the conduct if so desired. Cause for dismissal shall be as outlined in
1402 section 20-191 or for other reasons relative to job performance. Dismissal for
1403 disciplinary reasons may be instituted without prior notice. Unless a written notice
1404 of dismissal is handed to the employee personally by a supervisor or other
1405 authorized person, it shall be mailed to the employee at the last known address of
1406 such employee as shown by the employee personnel file maintained in the merit
1407 system department. It shall be the duty of each employee, and no other, to keep

1408 the merit system department informed of the employee's residence address. A
1409 permanent classified employee may appeal a dismissal, including dismissal due to
1410 reduction in force, to a hearing officer by filing a written notice of the desire to
1411 appeal with the director within ten (10) days from the effective date of dismissal.
1412 If the notice of dismissal is not handed to the employee personally, it shall be
1413 deemed to have been delivered to the employee three (3) days after the date of
1414 deposit in the United States mail. Copies of all dismissal notices shall be
1415 furnished to the director.

1416 **Sec. 20-190. Authority for disciplinary action and discharge.**

1417 The mayor, as the chief administrative officer of the city, shall have the
1418 authority to impose disciplinary actions and to dismiss employees as provided in
1419 this article. In addition, disciplinary action may be taken against an employee or
1420 an employee may be dismissed by the head of the department to which the
1421 employee is assigned. An employee's supervisor may propose disciplinary action
1422 or dismissal, but before the same shall become final, it must be reviewed and
1423 approved by the department head.

1424 **Sec. 20-191. Cause for dismissal or disciplinary action.**

1425 Cause for dismissal and disciplinary action shall include but not be limited
1426 to the following:

- 1427 (1) Violation of any material provision of this chapter, or other personnel rules
1428 and regulations, and any violation of section 20-20 (conflicts of interest)
1429 and section 20-20.1 (financial disclosure forms) of this chapter.
- 1430 (2) Substandard work quality.
- 1431 (3) Improper use of county equipment or property.
- 1432 (4) Selling or soliciting on county property without prior authorization.
- 1433 (5) Unauthorized use of telephone or other city communication equipment.
- 1434 (6) Conduct unbecoming an employee of the city while on duty.
- 1435 (7) Leaving the work area without permission from the supervisor.
- 1436 (8) Failure to call in when sick or absent from work otherwise without prior
1437 approval.

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- 1438 (9) Neglect, carelessness or disregard of common safety practices.
- 1439 (10) Violation of departmental rules.
- 1440 (11) Malicious mischief, horseplay, wrestling, or other undesirable conduct.
- 1441 (12) Falsifying any official record or document.
- 1442 (13) Giving a false answer or false information on application.
- 1443 (14) Habitual unexcused tardiness.
- 1444 (15) Loafing, neglect of duties or otherwise wasting of working time.
- 1445 (16) Sleeping during working hours except where conditions of work authorize
1446 and warrant it.
- 1447 (17) Possession of intoxicating beverages or controlled substances at place of
1448 work, or in official city vehicles.
- 1449 (18) Possession of or bringing a firearm or other deadly weapon on city
1450 property or an official city vehicle, unless duly authorized by the
1451 department head.
- 1452 (19) Reporting to work under the influence of intoxicating beverages, or drugs
1453 not prescribed by a physician.
- 1454 (20) Fighting, threatening, intimidating, coercing or otherwise interfering with
1455 the rights of other employees.
- 1456 (21) Gambling on county property.
- 1457 (22) Insubordination or willful failure to carry out an official supervisory
1458 directive or job assignment.
- 1459 (23) Acceptance of a fee, gift or service of any item of value in return for a
1460 favor.
- 1461 (24) Loss or damage of county property through carelessness or negligence.
- 1462 (25) Violation of a safety rule which results in personal injury or property
1463 damage; refusal to use proper safety equipment when provided.
- 1464 (26) Failure of supervisor to enforce established safety regulations, or requiring
1465 employee to perform unsafe act.
- 1466 (27) Excessive absenteeism.
- 1467 (28) Exhaustion of annual leave without prior approval.

- 1468 (29) Abuse of sick leave.
- 1469 (30) Misappropriation of city funds or illegal sale or disposal of city property
- 1470 for personal gain, or deliberate falsification of official reports,
- 1471 employment application or misrepresentation of personnel information in
- 1472 order to qualify for appointment or promotion.
- 1473 (31) Conviction of a felony crime, or a misdemeanor involving serious moral
- 1474 turpitude.
- 1475 (32) Engaging in a strike, work stoppage, slowdown or act of sabotage.
- 1476 (33) Substantial incompetence or inefficiency in carrying out work
- 1477 assignments.
- 1478 (34) Failure to report for work without prior approval, except when sick leave
- 1479 is authorized.
- 1480 (35) Stealing or similar conduct, including destroying, damaging or
- 1481 concealment of any property of the city.
- 1482 (36) Willful damage of or attempt to damage city property.
- 1483 (37) Threatening physical violence or striking a supervisor or subordinate.
- 1484 (38) Operation of any city-owned or city-leased vehicle or equipment without
- 1485 proper state license or while under the influence of any medication or drug
- 1486 which has been prescribed by a doctor and which carries the warning not
- 1487 to drive or operate machinery while using same.

1488 **Sec. 20-192. Intradepartmental transfer not a disciplinary act.**

1489 An employee may be transferred to another division or facility at the discretion of

1490 the department head. The department head shall be the final arbitrator of all

1491 intradepartmental transfers and the sole judge of the need, necessity, convenience or

1492 reason for such transfer. An intradepartmental transfer shall not be construed to be a

1493 demotion unless it results in a reduction of the employee's pay.

1494 **Sec. 20-193. Review of disciplinary action (appeals).**

1495 A permanent status employee aggrieved by any suspension, demotion, or

1496 termination may appeal such aggrieved action to a hearing officer as outlined below:

- 1497 (1) All requests for review of disciplinary actions shall be filed in writing with
1498 the director within (10) days from the effective date of the disciplinary action.
1499 (2) A hearing officer shall be assigned, pursuant to the administrative
1500 procedures, to hear said appeal within forty-five (45) days after it is filed,
1501 during which time said hearing will convene to afford the aggrieved
1502 employee a hearing before said hearing officer, which may be continued from
1503 time to time, to fully explain his or her conduct for which he or she was
1504 disciplined.
1505 (3) The hearing officer may reverse a disciplinary action only upon a finding that
1506 it was based upon an error in fact or was motivated by a non-job-related
1507 factor.
1508 (4) The hearing officer shall issue a written decision within twenty (20) days of
1509 the hearing. The decision of the hearing officer shall be in writing, dated and
1510 signed.

1511 The written decision shall contain the findings of fact, the conclusions and, clearly
1512 set forth the basis or grounds for the decision.

1513 **Sec. 20-194. Review of action considered discriminatory against employee.**

1514 Any employee who believes unjust discrimination has been exercised with respect
1515 to any disciplinary action because of race, color, religion, national origin, sex,
1516 political affiliation, or opinion, age, sexual orientation, or disability may appeal to a
1517 hearing officer within ten (10) days from the effective date of the action. Such appeal
1518 shall be filed with the director and set forth in detail the reasons why the employee
1519 contends the disciplinary action was based upon discrimination, including specifying
1520 the dates, times, places, and specific types of each instance of discrimination alleged.
1521 In such cases, the hearing officer may reverse the decision of the department head
1522 only on a finding that it was based on error of fact or was motivated by intentional
1523 discrimination against the employee because of membership in a protected class
1524 listed in this section. The same provisions relative to the hearing officer as outlined
1525 in section 20-193 shall also apply in the case of an employee discrimination appeal
1526 under this section.

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Sec. 20-195. Review of dismissal due to reduction in force.

An employee dismissed due to reduction in force may appeal to a hearing officer within ten (10) days from the effective date of the action. This appeal request must be filed in writing with the merit system director. Such appeal shall be filed and heard in accordance with the procedures set out in this chapter; however, the right of review by the hearing officer shall be limited to whether the dismissal was in fact due to lack of work, lack of funds, lack of appropriation of funds, abolishment of the position or for other material changes in the duties of the position or the organization of the department.

Sec. 20-196. Flat fee reimbursement for certain attorney's fees incurred by employees who successfully appeal a termination or demotion.

(a) Conditions of a flat fee reimbursement. Flat fee reimbursement shall be provided only when a permanent status employee appeals the employee's termination or demotion through the merit system appeal process and, at the end of any available appeals (including any appeals filed in court by the employee or the city), the employee's termination or demotion is reversed. In no event shall reimbursement exceed the flat fee amount provided for in the city attorney's flat fee reimbursement schedule for the year that the appeal process reaches its conclusion. Flat fee reimbursement shall be available only for successful appeals of termination and demotion actions effective on or after March 1, 2016.

(b) Timing of requests for and payment of flat fee reimbursement. An employee who seeks to be paid a flat fee reimbursement under this provision must submit to the city's finance director documentation establishing: that the termination or demotion is reversed after all available appeals have been concluded; the amount the attorney billed the employee for services representing the employee in that merit system appeal process; and the amount the employee actually paid to the attorney for those services. This documentation must be submitted to the finance director within forty-five (45) days after the employee becomes eligible to apply for the flat fee reimbursement. If the employee timely submits sufficient documentation to the finance director, the finance director shall pay the applicable

1557 flat fee reimbursement to the employee within thirty (30) business days after such
1558 submission. If the employee fails to submit sufficient documentation to the
1559 finance director, then the finance director shall not pay the applicable flat fee
1560 reimbursement.

1561 **Secs. 20-197 – 20-199. Reserved.**

1562

1563 **ARTICLE X. DOMESTIC PARTNERSHIPS.**

1564

1565 **Sec. 20-200. Definitions.**

1566 [The following words, terms and phrases, when used in this article, shall have the
1567 meanings ascribed to them in this section, except where the context clearly indicates a
1568 different meaning:]

1569 Declaration of domestic partnership means a form provided by the city finance
1570 department in which two (2) people of the same gender agree to be jointly responsible
1571 for the necessities of life incurred during the domestic partnership and that all
1572 qualifications for domestic partnership are met when the declaration is signed. The
1573 form will require both partners to provide reasonable proof of their primary, regular
1574 and permanent residence address. The form must be signed under penalty of perjury
1575 and must be witnessed and notarized.

1576 Domestic partnership means two (2) people of the same gender who live together in a
1577 single home and have signed a declaration of domestic partnership in which they
1578 attest that:

- 1579 1) They share the same primary, regular and permanent residence and have lived
1580 together for the previous twelve (12) months (documentation must be
1581 submitted verifying joint residency);
- 1582 2) They have a committed personal relationship with each other that is intended
1583 to be lifelong;
- 1584 3) The employee's partner is a dependent of the employee under Georgia law;
- 1585 4) They are not married as recognized by Georgia law to anyone or legally
1586 separated from anyone;

- 1587 5) They have only one current domestic partner;
1588 6) They are eighteen (18) years of age or older;
1589 7) They are competent to enter into a contract;
1590 8) They are not related by blood closer than would bar marriage in the state;
1591 9) They are each other's sole domestic partner;
1592 10) They agree to file a termination of domestic partnership within ten (10) days if
1593 any of the facts set out in this definition change;
1594 11) Any prior domestic partnership declared under this section, in which their
1595 domestic partner participated with a third party, was terminated not less than
1596 twelve (12) months prior to the date of such affidavit and, that notice of
1597 termination was provided to the county in writing to the finance department;
1598 12) They agree that the city employee shall have the sole and exclusive right to
1599 make all benefit elections on behalf of the domestic partner;
1600 13) They agree that the city employee shall be responsible for any and all tax
1601 liability associated with any benefits provided to the domestic partner,
1602 including imputed taxable income and be subject to tax withholding or other
1603 tax treatment;
1604 14) They agree under penalty of perjury under the laws of Georgia that all
1605 information in the declaration of domestic partnership is true and correct.

1606 Live (d) together means that the two (2) people claiming domestic partnership status
1607 share the same primary, regular and permanent residence. It is not necessary that the
1608 legal right to possess the residence be in both names. Domestic partners do not cease
1609 to live together if one leaves the shared residence for a period not to exceed six (6)
1610 months, but intends to return. Whether the relationship between these two (2) people
1611 is or is not sexual is in no way relevant for the purposes of determining eligibility
1612 under this article.

1613 **Sec. 20-201. Effect of declaration of domestic partnership.**

1614 (a) Rights and duties created. Neither this article nor the filing of a declaration of
1615 domestic partnership shall create any legal rights or duties from one of the
1616 parties to the other, except those that specifically refer to domestic

1617 partnership. Nothing in this article shall be construed to explicitly or
1618 implicitly create a marital relationship. This article does not attempt to alter
1619 or affect the laws in the state that regulate any private or civil relationships.
1620 This article shall not be construed to conflict with, alter or affect the laws of
1621 this state or the United States.

1622 (b) Nothing contained in this article shall create any rights in either domestic
1623 partner that are not covered, included or created in the underlying insurance
1624 or benefits plan documents of the city.

1625 **Sec. 20-202. Establishing existence of domestic partnership.**

1626 (a) Generally. Domestic partners, one of whom is an employee of the city, may
1627 establish the existence of their domestic partnership by presenting an original
1628 declaration of domestic partnership to the finance department of the city. The
1629 finance department will file the declaration. The standard declaration form
1630 will be available in the finance department during normal business hours.

1631 (b) Limitations. The finance department shall only accept for filing declarations
1632 of domestic partnership submitted by domestic partners at least one of whom
1633 is an employee of the city.

1634 (c) Amendments to the declaration. A partner may amend a declaration of
1635 domestic partnership filed with the finance department at any time to show a
1636 change in such partner's primary residence address.

1637 (d) New declarations of domestic partnership. No person who has created a
1638 domestic partnership may create another until twelve (12) months after a
1639 notice of termination has been signed and filed with the finance department.

1640

1641 **Sec. 20-203. Records, copies, filing fees.**

1642 Records of the city's finance department. The finance director shall keep a record
1643 of all declarations of domestic partnerships, amendments to declarations of domestic
1644 partnership, and all notices of termination. The records shall be maintained so that
1645 amendments and notices of termination shall be filed with the declaration of
1646 domestic partnership to which they pertain.

1647 **Sec. 20-204. Ending domestic partnerships.**

1648 (a) Termination. A domestic partnership ends when:

1649 (1) One partner sends the other partner written notice that such partner
1650 has ended the domestic partnership;

1651 (2) One of the partners dies; or

1652 (3) The partners no longer meet one (1) or more of the qualifications or
1653 conditions for domestic partnership.

1654 (b) Notice of termination. When a domestic partnership ends, the partners must
1655 execute a notice of termination naming the partner and stating that the
1656 partnership has ended. The notice of termination must be dated and signed
1657 under penalty of perjury by at least one (1) of the partners. The notice of
1658 termination must be filed with the finance department.

1659 Notwithstanding any of the above, the city shall revoke a declaration of a domestic
1660 partnership if the city finds that the partners no longer meet one (1) or more of the
1661 qualifications or conditions for domestic partnership. The effective date of such
1662 termination will be retroactive to the date that such qualifications or conditions were
1663 no longer met. The city may revoke the declaration of the domestic partnership upon
1664 recommendation of the finance director and approval of the city manager without
1665 notice or hearing to the employee or domestic partner. Nothing in this Code shall
1666 create any right to a notice or hearing concerning the termination of the domestic
1667 partnership. In all circumstances, the provisions of the city's insurance plans shall
1668 control regarding coverage, eligibility and benefits provided to domestic partners.

1669

1670 **ARTICLE XI. EMPLOYEE ORGANIZATIONS.**

1671

1672 **Sec. 20-205. Statement of policy.**

1673 It shall be the policy of the city to communicate with employee organizations in
1674 an orderly and professional manner, listening to input from such organizations where
1675 appropriate. This policy in no way obligates the city to bargain or contract with
1676 employee organizations. Further, this policy does not authorize employee

1677 organizations or any county employees to engage in strikes, slowdowns, or other
1678 organized absences from work or their assigned work stations.

1679 **Sec. 20-206. - Definitions.**

1680 For the purposes of this article, certain terms and words are hereby defined.
1681 Where words are not defined herein, but are defined in section 1-2, those words shall
1682 have the meaning as defined therein. The following words, terms, and phrases, when
1683 used in this article, shall have the meanings given to them in this section, except
1684 where the context clearly indicates a different meaning:

1685 An eligible employee is a city merit-status employee who is not:

- 1686 (1) A department head or other employee with actual authority to hire, fire, or
1687 discipline; or
1688 (2) A confidential employee who works directly with and reports directly to an
1689 elected official, department head, or department director.

1690 Employee organization means any lawful organization that eligible employees have
1691 joined for the purpose of discussing issues of common interest regarding terms and
1692 conditions of employment with the city of Stonecrest, Georgia.

1693 **Sec. 20-207. Applicability of article.**

1694 This article shall apply to employee organizations of which eligible employees are
1695 members.

1696 **Sec. 20-208. Prohibited discrimination and retaliation.**

- 1697 (a) There shall be no discrimination or retaliation against any eligible employee
1698 because of the fact that such employee is a member of an employee
1699 organization or has authorized a representative of an employee organization
1700 to communicate on his/her behalf in an appropriate manner regarding terms
1701 and conditions of city of Stonecrest employment. However, this section does
1702 not eliminate or limit the right to discipline employees for activities made
1703 unlawful by Georgia law or other applicable law (including, but not limited
1704 to, strikes or work slowdowns), or for conduct that violates city policy.
1705 (b) No employee shall be required, as a condition of employment with the city of
1706 Stonecrest, to become a member of any employee organization. There shall

1707 be no discrimination or retaliation against an eligible employee because of
1708 the fact that the employee chooses not to be a member of an employee
1709 organization or otherwise chooses not to become involved in employee
1710 organization activities.

1711 **Sec. 20-209. Representative of the city.**

1712 The executive assistant shall designate a person in the human resources
1713 department to serve as the city's designated representative to meet with employee
1714 organizations when appropriate.

1715 **Sec. 20-210. Meet and confer.**

1716 When an employee organization requests a meeting with the city, the designated
1717 city representative will meet with a representative or representatives of that
1718 organization upon reasonable terms for the purpose of listening to input from the
1719 organization regarding employment terms and conditions of eligible employees the
1720 organization represents (but not for the purpose of collective bargaining or
1721 negotiating a contract). The designated city representative shall not be required to
1722 meet with a particular employee organization more often than once per month.

1723 **Sec. 20-211. Representation of eligible employees in merit system hearings.**

1724 Subject to the terms and conditions of the merit system and human resource
1725 department's written administrative procedures governing the conduct of merit
1726 system hearings, a representative of an employee organization shall be permitted to
1727 represent and assist an eligible employee who is an appellant in a merit system
1728 hearing under sections 20-193, 20-194, or 20-195 of this chapter: (1) if that
1729 representative is an attorney, or (2) if those written administrative procedures
1730 expressly authorize an appellant to designate a non-attorney to represent him/her in a
1731 merit system hearing and specify the procedure for an appellant to designate a non-
1732 attorney representative for such a hearing.

1733 **Sec. 20-212. Employee organization activities during scheduled work hours.**

1734 No eligible employee may spend scheduled working time (excluding approved
1735 break time) away from his/her work assignment and/or work station to participate in
1736 employee organization activities, unless the employee obtains his/her supervisor's

1737 advance permission to spend that time away from his/her work assignment and/or
1738 work station. An eligible employee may spend up to one (1) hour per calendar month
1739 of paid scheduled working time in employee organization meetings or in meetings
1740 between employee organization representatives and the designated city
1741 representative or city elected officials, if the eligible employee has advance
1742 permission from his/her supervisor to spend that time away from his/her work
1743 assignment and/or work station. With the exception of that one (1) hour per calendar
1744 month, normal city and department rules regarding requests to take time off from
1745 work (using accrued paid leave or unpaid leave) apply to eligible employees'
1746 requests to take time away from their normal work assignments and/or work stations
1747 to participate in employee organization activities. The one-hour per calendar month
1748 of paid scheduled working time that an eligible employee may spend on certain
1749 employee organization activities as described above shall not accumulate if unused
1750 during a calendar month, and no payment shall be made for any such time that is not
1751 used.

1752 **Secs. 20-213 – 20-220. Reserved.**

1753
1754 **Section 2:**

- 1755
1756 1. It is hereby declared to be the intention of the Mayor and City Council that all
1757 sections, paragraphs, sentences, clauses and phrases of this Ordinance are and
1758 were, upon their enactment, believed by the Mayor and City Council to be fully
1759 valid, enforceable and constitutional.
- 1760
1761 2. It is hereby declared to be the intention of the Mayor and City Council that, to the
1762 greatest extent allowed by law, each and every section, paragraph, sentence,
1763 clause or phrase of this Ordinance is severable from every other section,
1764 paragraph, sentence, clause or phrase of this Ordinance. It is hereby further
1765 declared to be the intention of the Mayor and City Council that, to the greatest
1766 extent allowed by law, no section, paragraph, sentence, clause or phrase of this
1767 Ordinance is mutually dependent upon any other section, paragraph, sentence,
1768 clause or phrase of this Ordinance.

1769

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

- 1770 3. In the event that any phrase, clause, sentence, paragraph or section of this
1771 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional
1772 or otherwise unenforceable by the valid judgment or decree of any court of
1773 competent jurisdiction, it is the express intent of the Mayor and City Council that
1774 such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent
1775 allowed by law, not render invalid, unconstitutional or otherwise unenforceable
1776 any of the remaining phrases, clauses, sentences, paragraphs or sections of the
1777 Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
1778 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid,
1779 constitutional, enforceable, and of full force and effect.
1780
- 1781 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict
1782 herewith are hereby expressly repealed.
1783
- 1784 5. The within ordinance shall become effective upon its adoption.
1785
- 1786 6. The provisions of this Ordinance shall become and be made part of The Code of
1787 the City of Stonecrest, Georgia, and the sections of this Ordinance may be
1788 renumbered to accomplish such intention.
1789

1790 **SO ORDAINED AND EFFECTIVE** this the ____ day of _____,
1791 2019.

1792
1793
1794
1795 Approved:

1796
1797
1798 _____
1799 Jason Lary, Sr., Mayor

1800 As to form:

1801
1802
1803 _____
1804 Winston A. Denmark, City Attorney

1805
1806 Attest:

1807
1808
1809 _____
1810 Megan P. Reid, City Clerk



COUNCIL MEETING AGENDA ITEM

SUBJECT: Wreckers Ordinance (Chapter 26)

- | | | |
|---|-------------------------------------|--|
| <input checked="" type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input type="checkbox"/> OTHER |

Council Meeting: 04/22/2019

SUBMITTED BY: Christa Freeman

PURPOSE: 1st Reading

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

1 **AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING**
2 **CHAPTER 26 (WRECKERS) OF THE CITY CODE.**

3
4 **WHEREAS,** the City of Stonecrest, Georgia Mayor and City Council are authorized by
5 the City Charter to provide for the general health, safety and welfare of the
6 citizens of the City; and

7
8 **WHEREAS,** the Mayor and City Council find it to benefit the welfare of the citizens to
9 provide regulation governing wreckers that substantially mirror DeKalb
10 County's existing regulations; and

11
12 **WHEREAS,** this Ordinance shall be adopted as part of the City of Stonecrest City
13 Code, as Chapter 26 (Wreckers).

14
15 **THEREFORE,** the Mayor and City Council of the City of Stonecrest, Georgia hereby
16 ordain as follows:

17 **Section 1:** The Mayor and City Council of the City of Stonecrest, Georgia,
18 hereby adopt an Ordinance designated as "Chapter 26. Wreckers" to read and be
19 codified as follows:
20

21 **CHAPTER 26. WRECKERS.**

22
23 **ARTICLE I. IN GENERAL**

24 **Sec. 26-1. Definitions.**

25
26 For the purposes of this Chapter, certain terms and words are
27 hereby defined. Where words or terms are not herein defined, but are
28 defined in any other applicable sections of this Code or state law, now
29 and as they may be amended hereafter, those words shall have the
30 meaning as defined therein. As used in this Chapter, unless the context
31 otherwise indicates, the following words and terms shall have the
32 meaning ascribed to them:

33
34 *Department* means the police department or such other
35 department as may hereafter be designated to enforce this chapter.

36 *Director* means the chief of police or the designee thereof. When
37 a department other than the police department is designated to enforce
38 this chapter, the term means the director of such department or the
39 designee thereof.

40 *Wrecker* means an automotive vehicle with hoisting apparatus
41 and equipment for towing or hauling wrecked or disabled automobiles or
42 other vehicles. "Wrecker" includes any vehicle otherwise equipped and
43 used for the purpose of towing or hauling wrecked or disabled
44 automobiles or vehicles.

45

46 **Sec. 26-2. Compliance.**

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52 **Sec. 26-3. Issuance of Citation for violation.**

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56 **Sec. 26-4. Reserved.**

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59 **Sec. 26-5. Defacing Streets, Sidewalks or Curves.**

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64 **Sec. 26-6. Revocation of license.**

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(a) The department shall petition the finance department to revoke the business license of any wrecker owner or operator when such person has been found in violation of any of the terms of this chapter or upon any of the following grounds:

(1) If the registration was procured by fraudulent conduct or false statement of a material fact as to ownership, use, possession or operation.

(2) If the owner or licensee is found at the scene of an accident in violation of the provisions of this chapter.

- 72 (3) If the licensee uses a police radio to obtain information as
73 to location of the scene of the accident.
- 74 (4) If the licensee shall pay, in the form of a gratuity, any
75 person not involved in the accident for information as to
76 the location of the accident.
- 77 (b) This revocation shall terminate all authority and permission
78 granted by the registration to the wrecker owner. Any person
79 whose registration has been revoked shall not be eligible to again
80 apply for a license for a period of one (1) year from the date of
81 the issuance of the original license.
- 82 (c) Any person whose license has been revoked by the finance
83 department may file an appeal therefrom to Mayor and City
84 Council within twenty (20) days from the date of this revocation.
85 Mayor and City Council shall give the licensee at least ten (10)
86 days' notice in advance of the date of a public hearing for the
87 purpose of determining whether or not the business license to
88 operate a wrecker shall be revoked. Upon hearing the facts Mayor
89 and City Council may affirm, reverse, vacate or modify the order
90 of revocation.

91 **Secs. 26-7. 26-8. - Reserved.**

92 **Sec. 26-9. Information printed on side of wrecker.**

93 It shall be unlawful for any person, either as principal, agent or
94 employee, to operate or cause to be operated within the City any wrecker
95 unless such vehicle shall have lettered in permanent paint on each side in
96 plain view the following information: the name of the person owning and
97 causing wrecker to operate on the streets of the City, the address from
98 which the wrecker is operating and the telephone number. This lettering
99 shall be on a contrasting color to the color of the wrecker and shall be at
100 least two and one-half (2 ½) inches in height. Temporary or removable
101 magnetic signs shall not be permitted.
102

103 **Sec. 26-10. Weekly reports.**

104 (a) The owner or operator of any business providing wrecker service
105 to or storage facilities for the residents of the City shall furnish to
106 the department, on forms of a type approved by the department, a
107 typed, weekly report listing all motor-driven vehicles towed from
108 or stored within the City and remaining within the possession of
109 the business on the Friday following the towing or storage. The
110 vehicle shall be listed in each subsequent weekly report so long
111 as it remains in the possession of the business.

112 (b) Any person in the business of auto salvage or otherwise in the
113 business of selling used parts off vehicles within the seller's
114 possession and any person in the business of crushing, cutting up
115 or otherwise permanently destroying vehicles for scrap metal
116 shall furnish to the department, on forms of a type approved by
117 the department, a typed, weekly report listing all vehicles
118 obtained for salvage, used parts of scrap metal during the weekly
119 reporting period. The weekly reporting period shall begin at
120 12:01 a.m. each Saturday.

121 (c) The weekly reports required by subsections (a) and (b) of this
122 section shall be due each Tuesday and shall contain the name of
123 the person reporting; the authority under which the vehicle was
124 towed, stored or salvaged for parts or scrap metal; a description
125 of the vehicle; the location of its present storage site, if
126 applicable; its tag number, if any; its year and make; its color;
127 and its vehicle identification number.

128 (d) If any of the information required by subsection (c) of this section
129 cannot be obtained for the weekly report required by subsection
130 (a) of this section without damaging the vehicle, the fact shall be
131 conveyed by the owner or operator of the wrecker service or

132 storage facility to the department by telephonic communication
133 and shall also be set forth in the weekly report.

134
135 **Sec. 26-11. Response to accident scene upon proper requests only.**

136 It shall be unlawful for the owner of any wrecker, or the agent,
137 representative or employee of same, to go to any place where an accident
138 has occurred unless called by the driver or the owner of the disabled
139 vehicle or by the owner's authorized representative, or by the department
140 dispatcher. It shall be unlawful for the owner of any wrecker, or the
141 agent, representative or employee of same, to go to the place of a wreck
142 by reason of information received by police radio.

143
144 **Sec. 26-12. Responsibility for cleaning accident debris from street
145 and right-of-way.**

146 All wrecker operators, after having been called to the scene of an
147 accident for the purpose of removing a damaged vehicle, shall clean all
148 the debris caused by the accident from the street and right-of-way before
149 they leave. If two (2) or more wreckers are called to the same accident
150 scene, they shall be equally responsible for cleaning.

151
152 **Sec. 26-13. Solicitation for business by city employee.**

153 It shall be unlawful for any City employee to solicit business for any
154 wrecker owner or operator.

155
156 **Sec. 26-14. Cruising or parking for purpose of soliciting towing
157 work.**

158 It shall be unlawful to cruise or park on any street or bridge in a wrecker
159 and solicit towing work.

160
161 **Sec. 26-15. Notification of police department upon removal of
162 vehicles at request of any person other than officer.**

163 The operator of any wrecker removing a private motor vehicle from
164 another person then having possession of such motor vehicle at the
165 request of any person other than a City or County officer on duty for the
166 department shall report this action to the department along with the
167 following information: the location of its present storage place, a
168 description of the vehicle, the tag number and the vehicle identification
169 number. This report shall be made by the wrecker operator by telephonic
170 communication to the City within one (1) hour of the deposit of the
171 vehicle at its storage point.

172
173 **Sec. 26-16 – 26-39. Reserved.**

174
175 **ARTICLE II. BOOTING OF VEHICLES ON PRIVATE**
176 **PROPERTY**

177
178 **Sec. 26-40. Title and purpose.**

179 This article shall be known as the Booting of Vehicles on Private
180 Property Ordinance. This article shall specifically apply to businesses
181 operating booting or vehicle immobilization services on private property
182 and immobilization device operators, as defined herein. It shall be
183 unlawful for any person, business, principal, agent, employee or
184 independent contractor to use, operate, charge for, or retain services for
185 the use of any booting services or vehicle immobilization services on
186 private property located within the City without complying with the
187 provisions of this article.

188
189 **Sec. 26-41. Definitions.**

- 190 (a) Wherever the term “City” is used in this article, it shall be
191 construed to mean the City of Stonecrest, Georgia.
192 (b) Words or phrases not defined in this chapter, but defined in
193 applicable state law or the Code of Stonecrest, shall be given that

194 meaning. All other words or phrases shall be given their common
195 ordinary meaning unless the context requires otherwise. The
196 following words, terms, and phrases, when used in this chapter,
197 shall have the meanings ascribed to them below except where the
198 text clearly indicated a different meaning:

- 199 (1) *Business license*, as used in this article, means a business
200 occupation tax certificate issued pursuant to applicable
201 law. The terms “business license” and /or “business
202 occupation tax certificate” are interchangeable and are
203 defined pursuant to chapter 15 of the Code of Stonecrest,
204 Georgia.
- 205 (2) *Boot, booting, mechanical locking device, or vehicle*
206 *immobilization device*, as used in this article, are
207 interchangeable and mean any mechanical device or boot
208 that is designed or adopted to be attached to a wheel, tire,
209 or other part of a parked motor vehicle so as to prohibit
210 the motor vehicle’s usual manner of movement or
211 operation.
- 212 (3) *Occupant* means any person, entity, business, tenant, or
213 individual(s) that is occupying the premises or property
214 where vehicle is parked or located, whether or not that
215 occupant has a formal lease.
- 216 (4) *Operator* means any person, employee, sole proprietor,
217 independent contractor, partnership or similar business
218 entity, operating booting or vehicle immobilization
219 devices for a vehicle immobilization service.
- 220 (5) *Parking lot, premises, property and area* mean the
221 location and real property at which the vehicle is located,
222 with or without permission of the property owner, and
223 continue to retain their ordinary meaning.

- 224 (6) *Permit*, as used in this article, means a permit issued by
225 the police department for the use, service or operation of a
226 booting or vehicle immobilization device.
- 227 (7) *Private property owner* means any person, entity,
228 business, or individual(s) that is the record owner of the
229 real property on which a vehicle is located.
- 230 (8) *Towing and wrecker services* as ordinarily defined are not
231 interchangeable with booting and shall be governed
232 separately by Article I of Chapter 26 of the City Code, as
233 amended.
- 234 (9) *Vehicles* as used herein shall mean all cars, trucks,
235 passenger vehicles, and tractor-trailer trucks of all classes
236 and axles.
- 237 (10) *Vehicle immobilization service* means a business, person,
238 including a sole proprietor, independent contractor,
239 partnership or similar business entity offering booting or
240 other services anywhere in the City whereby vehicles are
241 immobilized by the attachment or use of a chain, booting
242 or vehicle immobilization device.

243
244 **Sec. 26-42. Business occupation tax certificate.**

245 It shall be unlawful for any person to operate or cause to be operated any
246 immobilization device or vehicle immobilization service within the City
247 without first having obtained a business occupation tax certificate in
248 compliance with Chapter 15 of this Code, where applicable.

249 **Sec. 26-43. Permit to operate a vehicle immobilization service.**

- 250 (a) It shall be unlawful for any vehicle immobilization service or
251 operator to operate within the territorial limits of Stonecrest,
252 Georgia without having obtained a permit issued by the police
253 department or their designee, as provided in this article.
254

- 255 (b) The owner or officer of a vehicle immobilization service desiring
256 to obtain a permit required by this article shall file an application
257 with the DeKalb County police department on forms to be
258 prepared and approved by the police department. Applicants for
259 the permit or renewal of a permit shall make themselves available
260 for photographing, fingerprinting, and such other background
261 investigation as may be required by the police department.
- 262 (c) The permit application shall state:
- 263 (1) The name and address of the applicant;
 - 264 (2) Where the business is located;
 - 265 (3) Nature and character of the business to be carried on;
 - 266 (4) Valid addresses of all property for which the permit is
267 requested;
 - 268 (5) A copy of a current and valid business license or business
269 occupation tax certificate;
 - 270 (6) If a sole proprietor, the name of the owner;
 - 271 (7) If a partnership, the names of the partners;
 - 272 (8) If a corporation, the names of the officers;
 - 273 (9) The charges to be imposed for various services;
 - 274 (10) Type of body camera(s) to be used;
 - 275 (11) Amounts and types of insurance held;
 - 276 (12) Such other information as may be required by the police
277 department; and
 - 278 (13) Shall be sworn by the applicant or agent thereof.
- 279 (d) No permit under this article shall be issued to an applicant unless
280 the applicant has a valid and current business occupation tax
281 certificate to do business in the State of Georgia.
- 282 (e) No permit under this article shall be issued to any applicant who
283 has been convicted in this state or any other state within three (3)
284 years immediately prior to the application for a permit or license

285 of a crime involving distribution or possession of illegal
286 narcotics, sex offenses, financial crimes, or any other crime
287 involving moral turpitude. Any person operating a vehicle
288 immobilization device without a permit may be cited or charged
289 with criminal trespass or violation of any other applicable law.

290 (f) Should any vehicle immobilization service with a permit obtained
291 pursuant to this article be charged with committing any crime as
292 described in subsection (e) above, then such charge shall
293 constitute the basis for adverse action, including suspension or
294 revocation of the license or permit by the chief of police.

295 (g) A permit will be valid for a period of twelve (12) months from
296 the date issued and shall be reviewed on or before its expiration.

297 (h) Fees under this article shall be recommended by the police
298 department for approval by Mayor and City Council.

299 (i) The City, department or their designee may revoke the permit of
300 any vehicle immobilization service or operator when such
301 business or person has been issued a citation and found to be in
302 violation of any of the terms of this chapter or in violation of any
303 other applicable law, per the policies and procedures as
304 established by the police department.

305
306 **Sec. 26-44. Permit for operators of a vehicle immobilization device.**

307 (a) It shall be unlawful for an individual, independent contractor or
308 employee to operate or use a vehicle immobilization device
309 unless he/she has obtained a permit under this section.

310 (b) Every individual desiring to obtain a permit shall file an
311 application with the police department on forms to be prepared
312 and approved by the police department, subject to the policies
313 and permit requirements as established by the department.
314 Persons applying for the permit or renewal shall make themselves
315 available for photographing, fingerprinting, and such other

- 316 background checks or investigation as may be required by the
317 police department.
- 318 (c) The application shall state:
- 319 (1) The name and address of the applicant/operator;
- 320 (2) The telephone number of the applicant/operator;
- 321 (3) The applicant's driver's license number or state issued
322 identification number
- 323 (4) Such other information as may be required by the police
324 department; and
- 325 (5) Shall be sworn by the applicant.
- 326 (d) Once issued, operators shall carry with them their permit or a
327 copy of their permit at all times when they are in the process of
328 installing or removing a vehicle immobilization device.
- 329 (e) No permit under this article shall be issued to any applicant who
330 has been convicted in this state or any other state within three (3)
331 years immediately prior to the application for a license or permit
332 of a crime involving distribution or possession of illegal
333 narcotics, sex offenses, financial crimes, or any other crime
334 involving moral turpitude. Any person operating a vehicle
335 immobilization device without a permit may be cited or charged
336 with criminal trespass or violation of any other applicable law.
- 337 (f) Should any individual with a permit obtained pursuant to this
338 article be charged with committing any crime as described in
339 subsection (e) above, then such charge shall constitute the basis
340 for adverse action, including the immediate suspension or
341 revocation of the permit by the chief of police.
- 342 (g) A permit will be valid for a period of twelve (12) months and shall
343 be renewed on or before its expiration.
- 344 (h) Fees under this article shall be recommended by the police
345 department for approval by the Mayor and City Council.

346 (i) The department or their designee may petition to revoke the
347 permit of any vehicle immobilization service or operator when
348 such business or person has been issued a citation and found to be
349 in violation of any of the terms of this chapter or in violation of
350 any other applicable law, and subject to policies and procedures
351 as established by the police department.

352

353 **Sec. 26-45. Revocation of business license.**

354 (a) The department or their designee may petition the City to revoke
355 the business license of any vehicle immobilization service or
356 operator when such service or operator has been convicted or
357 found to be in violation of any of the terms of this article or in
358 violation of any other applicable law, ordinance or regulation.

359 (b) A business license revocation shall immediately terminate all
360 permits, authority and permission granted to the vehicle
361 immobilization service and operator. Any person whose business
362 license has been revoked shall not be eligible to again apply for a
363 permit for a period of one (1) year from the date of revocation.

364 (c) Any person whose business license has been revoked may file an
365 appeal pursuant to chapter 15 of the Code, as amended.

366

367

Sec. 26-46. Vehicle immobilization device operations, generally.

368 (a) Vehicle immobilization and booting fees shall be limited as
369 provided herein. Any vehicle immobilization service shall not
370 charge the owner or operator of any immobilized vehicle or
371 personal property for the removal of the vehicle immobilization
372 device in excess of the below fees within a twenty-four-hour
373 time period:

374 Semi-trucks including those without a trailer \$150.00

375 All vehicles other than semi-trucks \$ 85.00

- 376 (b) The operator must provide and shall have the means to accept and
377 receive payment by cash, check, credit card, or debit card at no
378 additional charge. The operator shall provide and have the means
379 to issue a receipt upon payment.
- 380 (c) This article shall not prohibit the towing of vehicles left or
381 abandoned on property for more than twenty-four (24) hours,
382 pursuant to chapter 26 of the Code of Stonecrest, Georgia, and
383 subject to all other applicable laws.
- 384 (d) A vehicle immobilization service must maintain a twenty-four-
385 hour per day, three hundred sixty-five (365) days per year phone
386 number that is staffed by a live operator to communicate
387 immediately with the owner or driver of a vehicle that has been
388 immobilized by the vehicle immobilization service.
- 389 (e) Vehicle immobilization devices shall be removed within one (1)
390 hour of the initial request and payment of the permissible fee. The
391 operator shall have immediate access to equipment to remove
392 and/or release the vehicle immobilization device. The removal
393 fee shall be forfeited and the vehicle immobilization device
394 released at no charge if the operator does not remove the vehicle
395 immobilization device within one (1) hour after being contacted
396 by the owner or operator of the immobilized vehicle.
- 397 (f) Property owners or occupants that assess a charge for parking
398 may use vehicle immobilization devices only when a paper or
399 electronic receipt for each paid parking charge is provided at the
400 time of payment. Equipment used to collect payment for
401 permitted parking must be on-site and be capable of producing a
402 receipt. The receipt shall include the address of the lot and time
403 and date of payment, and if applicable, any time limitations to
404 which the parking charge applies. Properties, parking lots or areas
405 that assess a charge for parking and allow the operation of a

- 406 vehicle immobilization device must provide parking payment
407 options that include cash, debit, and credit card options. No fee
408 shall be assessed for the removal of a vehicle immobilization
409 device when the owner or operator of the vehicle can
410 immediately show a receipt and proof of parking fees for
411 permitted parking within the time their vehicle is located on the
412 premises.
- 413 (g) The operator must wear an identification badge issued by the
414 vehicle immobilize service listing the name and address of the
415 vehicle immobilize service employing the operator, all applicable
416 booting permit numbers issued by the City of Stonecrest, the
417 operator's first name, and a passport sized photo of the operator.
- 418 (h) The operator shall at all times carry their City-issued permit.
- 419 (i) The operator shall wear a uniform issued by the vehicle
420 immobilization service with the name of the vehicle
421 immobilization service employing the operator.
- 422 (j) During hours of operation, the operator shall wear a body camera,
423 the type and design which shall be approved by the police
424 department as part of the permit process. Body camera recordings
425 shall be maintained by the operator for a period not less than
426 thirty (30) days. Recordings shall be provided to the City or
427 police department upon verbal or written request.
- 428 (k) It shall be unlawful for any person, either as principal, agent or
429 employee, to operate within the territorial limits of the City any
430 vehicle to assist in operation of a vehicle immobilization service
431 unless the vehicle shall have displayed on each side in plain view
432 the name of the vehicle immobilization service, the address from
433 which the vehicle immobilization service is operating and the
434 telephone number of the vehicle immobilization service.

- 435 (l) It shall be unlawful for an operator to immobilize vehicles on any
436 private property unless contacted by an occupant of the property
437 requesting the immobilization of an unauthorized vehicle or
438 without having entered into a valid written contract for vehicle
439 immobilization services with the private property owner, lawful
440 lessee, managing agent, or other person or occupant in control of
441 the property.
- 442 (m) It shall be unlawful for either a vehicle immobilization service or
443 an operator to make any payment to an owner, occupant, or agent
444 of a parking lot in excess of the reasonable and customary fee
445 ordinarily charged by the owner, occupant, or agent of the
446 parking lot for parking thereon, and any such excess payment
447 shall be considered a kickback.
- 448 (n) Emergency vehicles used in police, fire or medical emergencies
449 shall not be immobilized for any reason. Upon proof that an
450 unmarked vehicle is used for emergency purposes, the vehicle
451 immobilization device shall be removed immediately at no
452 charge.
- 453 (o) The police department or their designee shall have the authority
454 to request the immediate removal of a vehicle immobilization
455 device for any emergency or public safety purpose.
- 456 (p) It shall be unlawful to immobilize any occupied vehicle. The
457 person occupying the unauthorized vehicle shall either pay the
458 appropriate fee for the privilege of parking at the location or
459 immediately remove the vehicle from the lot.
- 460 (q) It shall be unlawful for an operator to immobilize any vehicle
461 parked for less than twenty (20) minutes. Just cause for
462 immobilizing a vehicle parked for over twenty (20) minutes shall
463 be established by no less than two (2) time-stamped photographs

464 which clearly depict the parking space, the parked vehicle, and
465 license plate of the parked vehicle.

466
467 **Sec. 26-47. Notice Signs.**

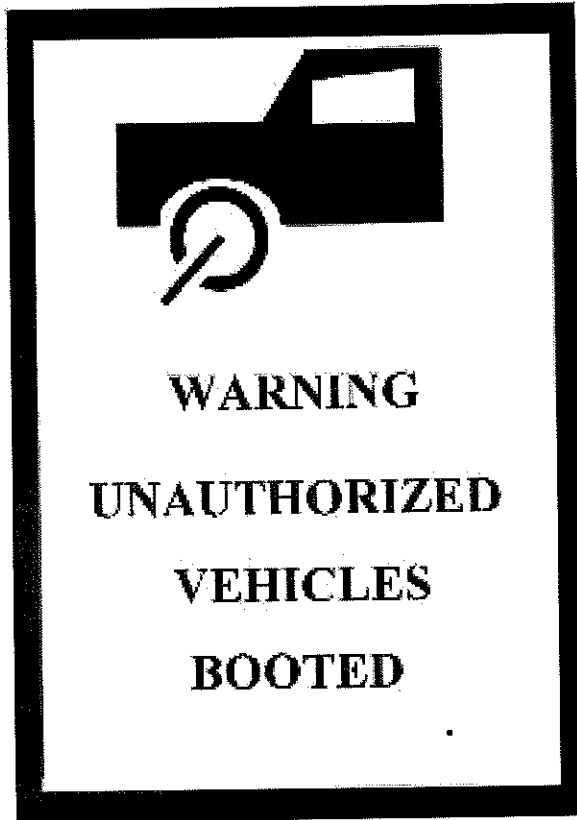
468 (a) It shall be unlawful for any person, except for law enforcement
469 personnel, to affix a vehicle immobilization device to any
470 automobile parked on private property within the City, regardless
471 of whether a charge for parking is assessed, unless the following
472 conditions are met:

473 (1) At every parking facility, lot or area where vehicle
474 immobilization may occur signs (Sample Sign #1) stating parking
475 prohibitions are in effect and booting may occur shall be posted
476 at every point of ingress and egress to or from the premises.
477 Parking areas with no designated ingress or egress must place
478 signs every fifty (50) feet across the property frontage. The sign
479 shall be at a minimum of twenty-four (24) inches by thirty (30)
480 inches in size and lettering on the sign shall be a minimum of one
481 (1) inch in height. The sign shall be positioned so that the bottom
482 edge is at least seven (7) feet from the ground. The wording on
483 such signs shall consist of the following information and be
484 consistent with the Sample Sign #1:

- 485 a. A booting symbol;
486 b. The statement "Warning Unauthorized Vehicles Booted."

487 *Sample Sign #1:*

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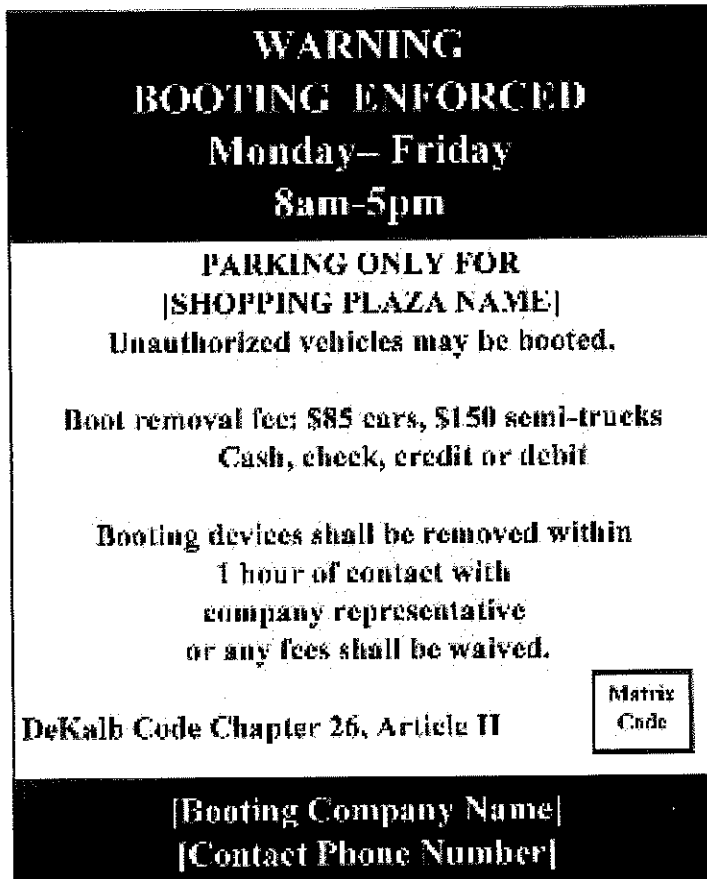
502

(2) Signs shall also be erected within the lot, so that a sign can be clearly visible from each row of parking. The sign (Sample Sign #2) shall be at a minimum of twenty-four (24) inches by thirty (30) inches in size and lettering on the sign shall be a minimum of one (1) inch in height. The sign shall be positioned so that the bottom edge is at least seven (7) feet from the ground. Signs larger than the measurements herein shall not be subject to the requirements of the sign ordinance. The wording on such signs shall consist of the following information and be consistent with Sample Sign #2:

- a. The statement "Warning Booting Enforced;"
- b. The hours of booting enforcement;
- c. The name of the business served by the parking lot or the name of the shopping center if more than one (1) business occupant;
- d. The maximum fees for removal of the device;

- 503 e. The name of the vehicle immobilization service and current phone number
504 to contact for removal of the immobilization device;
- 505 f. The statement "Booting devices shall be removed within one (1) hour of
506 contact with company representative or any fees shall be waived;"
- 507 g. The statement "Chapter 26 of the Code of Stonecrest, Georgia;" and
- 508 h. Contain a matrix code or website address provided by the police
509 department linking to the City Code.

510 *Sample Sign #2:*
511

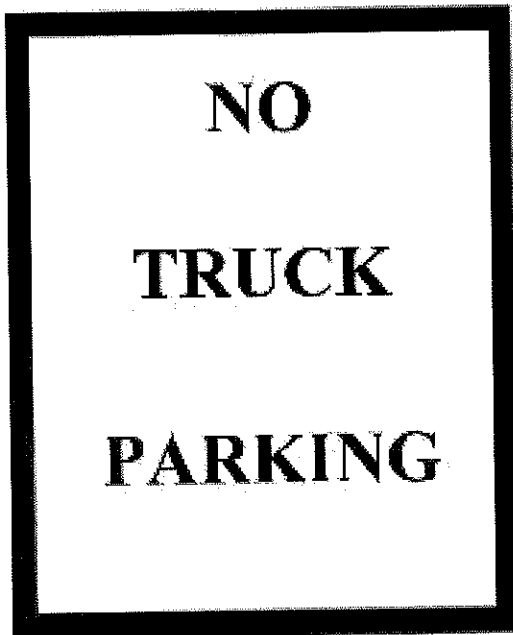


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516

(3) Any property owner or occupant prohibiting parking of semi-trucks on the lot shall post signs at every point of ingress and egress to or from the premises stating semi-truck parking is prohibited and booting may occur. Parking areas

517 with no designated ingress or egress must place signs every fifty (50) feet across
518 the property frontage. The sign shall be positioned so that the bottom edge is at
519 least seven (7) feet from the ground. The wording on such signs shall consist of
520 the following information and be consistent with Sample Sign #3:

521 *Sample Sign #3:*
522



523
524
525

(4) All signs must be legible, not faded, and unobscured by vegetation.

526 (5) Lettering on all signs shall be black on white. If vehicle immobilization
527 devices are to be utilized before 7:00 a.m. or after 6:00 p.m., the signs shall have
528 a reflective grade background, and be illuminated if out of headlight range.

529
530

Sec. 26-48. Vehicle immobilization on residential property.

531 In addition to the requirements in this chapter, no operator or any partner,
532 member, officer, employee, or contractor of such operator shall immobilize any
533 motor vehicle in a driveway, parking lot, or parking area that is designated for
534 residential parking or residential use unless the owner or driver of the motor
535 vehicle has been provided with posted or written notice of the use of vehicle

536 immobilization devices on said property. Any device applied to any such motor
537 vehicle in violation of this section shall be removed without the payment of any
538 fee.

539 **Sec. 26-49. Violations.**

540 (a) The provisions of this article may be enforced by authorized or designated
541 city employees, including police officers and code enforcement officers.

542 (b) Any person, operator, or vehicle immobilization service who does anything
543 prohibited by or fails to do anything required by this article, upon citation by an
544 authorized city employee, including, but not limited to a police officer or a code
545 enforcement officer, and upon conviction of the violation in a court of competent
546 jurisdiction, which includes the Magistrate or State Courts of DeKalb County, and
547 shall be subject to a fine and/or imprisonment with the following minimum
548 penalties:

549 (1) Upon a first conviction of any violation of this article, the court shall
550 impose a fine of not less than two hundred dollars (\$200.00) in addition to
551 any other penalty or punishment imposed by the court.

552 (2) Upon a second conviction of violation of this article, within one (1)
553 year measured from the date of any previous conviction of a violation of this
554 article, the court shall impose a fine of not less than five hundred dollars
555 (\$500.00) in addition to any other penalty or punishment imposed by the
556 court.

557 (3) Upon a third conviction of a violation of this article, within one (1)
558 year measured from the date of any previous conviction of a violation of this
559 article, the court shall impose a fine of not less than one thousand dollars
560 (\$1,000.00) in addition to any other penalty or punishment imposed by the
561 court.

562 (c) Upon three (3) convictions under this article, the police department may
563 request and the city shall have the discretion to review and revoke a business

564 license subject to the notice and hearing requirements found under chapter 15 of
565 the Code.

566
567 **Sec. 26-50. Insurance.**

568 (a) All vehicle immobilization services under this article shall procure, or cause
569 to be procured, and keep continuously in full force and effect during the duration of
570 operations, and shall keep on file with the police department, a policy of
571 comprehensive general liability insurance and business auto liability insurance on a
572 certificate of insurance, issued by a casualty insurance company authorized to do
573 business in this state and in the standard form approved by the insurance
574 commissioner of the state.

575 (b) The comprehensive general liability insurance must be on a broad form and
576 provide limits of liability for bodily injury and property damage in an amount of five
577 hundred thousand dollars (\$500,000.00) per occurrence with a one-million-dollar
578 (\$1,000,000.00) aggregate.

579 (c) Certificates of insurance for companies doing business in the city, covering:
580 (1) Statutory workers compensation insurance, or proof that the vehicle
581 immobilization service is not required to provide such coverage under state law;
582 (2) Professional liability insurance with a limit of one million dollars
583 (\$1,000,000.00); and
584 (3) Commercial general liability insurance covering all operations with
585 a combined single limit of one million dollars (\$1,000,000.00).

586 (d) Each insurance policy must state that it may not be canceled, materially
587 modified or non-renewed unless the insurance company gives the police department
588 thirty (30) days' advance written notice.

589
590 **Sec. 26-51. Enforcement of this article.**

591 This article shall be effective upon adoption by the board of commissioners and
592 approval by the chief executive officer (the "effective date"). Except for the fee
593 and time restrictions and requirements in section 26-46 of this article, which
594 section shall be enforceable on the effective date, vehicle immobilization services
595 and operators that are subject to this article shall have ninety (90) days from the
596 effective date to comply with all other sections in this article.

597 **Section 2:**

- 598
- 599 1. It is hereby declared to be the intention of the Mayor and City Council that all
600 sections, paragraphs, sentences, clauses and phrases of this Ordinance are and
601 were, upon their enactment, believed by the Mayor and City Council to be fully
602 valid, enforceable and constitutional.
- 603
- 604 2. It is hereby declared to be the intention of the Mayor and City Council that, to the
605 greatest extent allowed by law, each and every section, paragraph, sentence,
606 clause or phrase of this Ordinance is severable from every other section,
607 paragraph, sentence, clause or phrase of this Ordinance. It is hereby further
608 declared to be the intention of the Mayor and City Council that, to the greatest
609 extent allowed by law, no section, paragraph, sentence, clause or phrase of this
610 Ordinance is mutually dependent upon any other section, paragraph, sentence,
611 clause or phrase of this Ordinance.
- 612
- 613 3. In the event that any phrase, clause, sentence, paragraph or section of this
614 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional
615 or otherwise unenforceable by the valid judgment or decree of any court of
616 competent jurisdiction, it is the express intent of the Mayor and City Council that
617 such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent
618 allowed by law, not render invalid, unconstitutional or otherwise unenforceable
619 any of the remaining phrases, clauses, sentences, paragraphs or sections of the
620 Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
621 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid,
622 constitutional, enforceable, and of full force and effect.
- 623
- 624 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict
625 herewith are hereby expressly repealed.
- 626
- 627 5. The within ordinance shall become effective upon its adoption.
- 628

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

629 6. The provisions of this Ordinance shall become and be made part of The Code of
630 the City of Stonecrest, Georgia, and the sections of this Ordinance may be
631 renumbered to accomplish such intention.

632

633 **SO ORDAINED AND EFFECTIVE** this the ____ day of _____,
634 2019.

635

636

637

638

Approved:

639

640

641

642

Jason Lary, Sr., Mayor

643

644

As to form:

645

646

647

648

Winston A. Denmark, City Attorney

649 Attest:

650

651

652

653

Megan Reid, City Clerk




CITY COUNCIL AGENDA ITEM

SUBJECT: RZ-19-001 Residential Rezoning (4001-3989 Panola Road)

ORDINANCE **POLICY** **STATUS REPORT**

DISCUSSION ONLY **RESOLUTION** **OTHER**

Date Submitted: 4/15/19 **Work Section:** **Council Meeting: 4/22/2019**

SUBMITTED BY: Nicole Dozier, Community Development Department Director 

PURPOSE: To change the zoning from R-100 (Residential Med Lot) to R-75 (Residential Med Lot) to construct 115 Single-Family Homes.

HISTORY: The applicant was originally heard at the February 25th City Council Meeting but was referred back to Planning Commission to allow the applicant to have more neighborhood meetings and to submit a traffic impact study. This application was heard at the April 2nd, 2019 Planning Commission Meeting. The Planning Commission recommends approval of the application, with conditions.

OPTIONS: Approve; Deny; or make Alternative conditions

RECOMMENDED ACTION:

Planning Commission recommended approval of petition RZ-19-006 at the April 2nd, 2019 meeting with conditions.

ATTACHMENTS:

- # 1 4/2/19 Staff Report
- # 2 4/2/19 Power Point Presentation



PLANNING COMMISSION STAFF REPORT(S)



PLANNING COMMISSION STAFF REPORT

MEETING DATE: April 2nd, 2019

GENERAL INFORMATION

Petition Number: RZ-19-001

Applicant: Blue River Development c/o Battle Law

Owner: Wagner Robert Dane

Project Location: 4001-3989 Panola Rd.

District: District 4

Acreage: 53.16 acres

Existing Zoning: R-100 (Residential Med Lot)

Proposed Zoning: R-75 (Residential Med Lot)

Proposed Development/Request: The applicant is requesting to rezone the subject property from R-100 to R-75 for the development of 115 single-family subdivision.

The application was originally heard at the February 25th City Council Meeting and deferred back to Planning Commission to allow the applicant to host another neighborhood meeting.

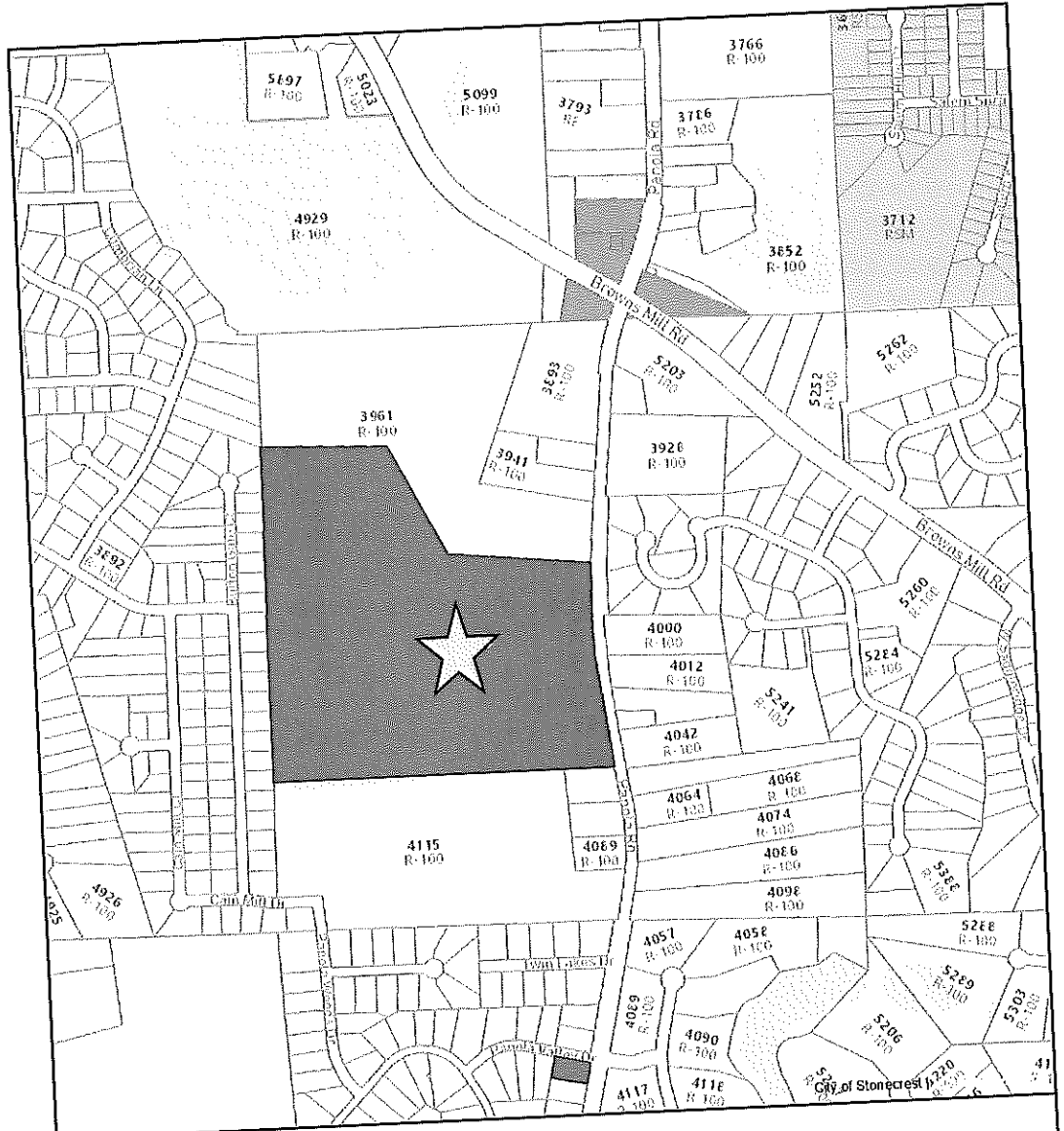
Staff Recommendations: Approved with conditions

Planning Commission: Approved with conditions



PLANNING COMMISSION STAFF REPORT

Zoning Map



ZONING CASE: RZ-19-001

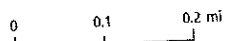
ADDRESS: 3989 / 4001 Panola Rd

CURRENT ZONING: R-100

FUTURE LAND USE: Suburban



Subject Site





PLANNING COMMISSION STAFF REPORT

Aerial Map



ZONING CASE: RZ-19-001

ADDRESS: **3989 / 4001 Panola Rd**

CURRENT ZONING: **R-100**

FUTURE LAND USE: **Suburban**



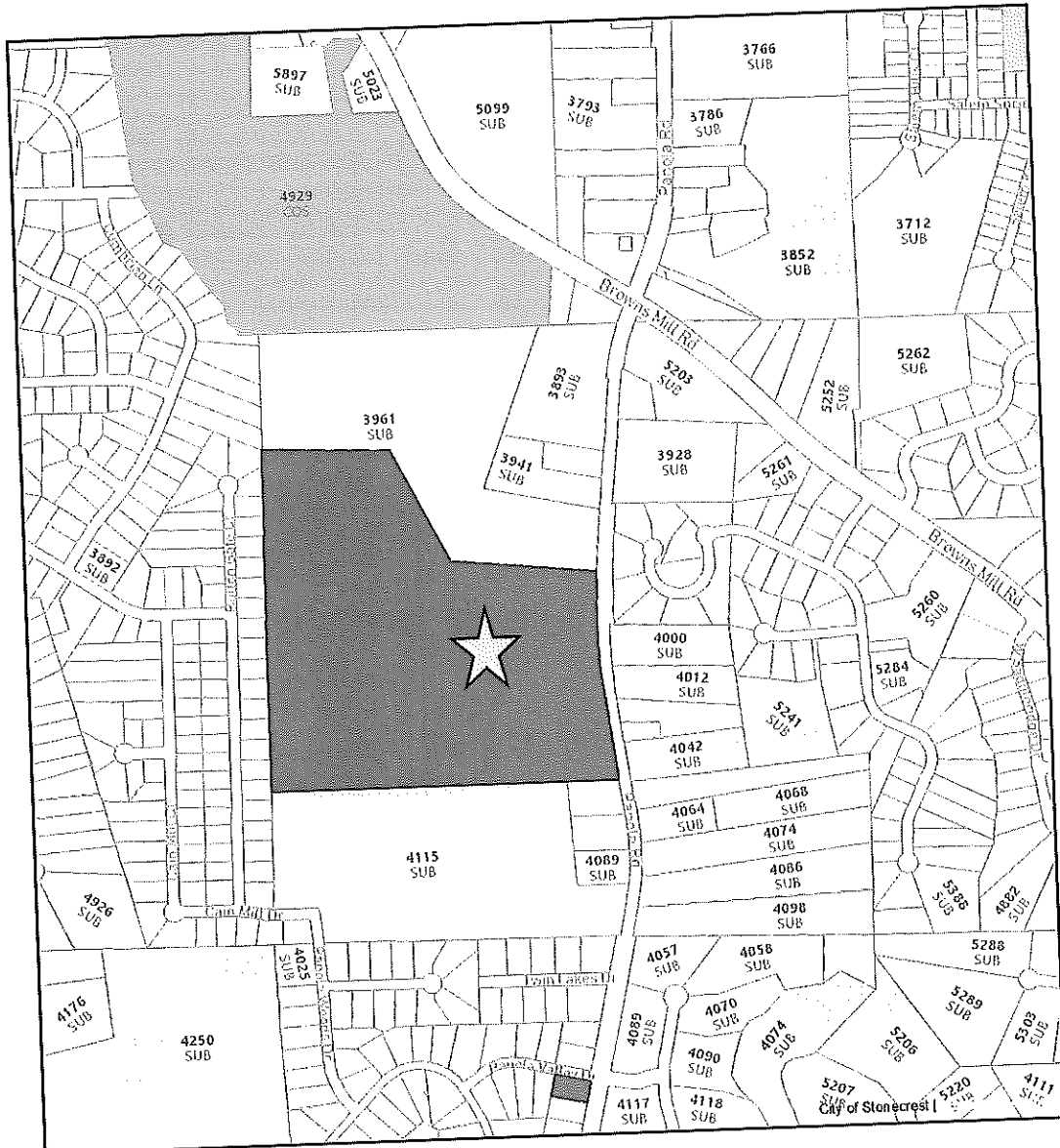
Subject Site

0 0.1 0.2 mi



PLANNING COMMISSION STAFF REPORT

Future Land Use Map



ZONING CASE: RZ-19-001

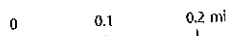
ADDRESS: 3989 / 4001 Panola Rd

CURRENT ZONING: R-100

FUTURE LAND USE: Suburban



Subject Site





PLANNING COMMISSION STAFF REPORT

PROJECT OVERVIEW

The application was heard at the February 25th City Council Meeting and deferred back to Planning Commission, to allow the applicant more time to complete a traffic impact study and to hold more community meetings.

The applicant is requesting a change in zoning for 53.16 acres from R-100 (Medium Density Residential) to R-75 (Residential Med Lot) District to allow for the construction of 115 detached single-family residential homes. The Future Land Use Character for the property is Subdivision identified as in the Stonecrest Comprehensive Plan.

The subject properties are located approximately 1350 feet to the south of the intersection of Browns Mill Road and Panola Road. The properties currently have two single family homes located on it, built between the 1930s or 1940s. The properties have a mixture of pines and hardwoods vegetation. The topography of the property can be characterized as being uneven. Several areas of the subject property (mostly toward the middle of the property) has a steep decline dropping some ten's of feet.

The applicant is proposing 115 units single-family homes. The proposed density will be 2.18 units per acre. The minimum square footage for the single-family homes will be 1,600 square feet. Submitted elevations for the residential units show the façade to be a mixture of brick or stone with accents of concrete siding. The side and rear elevations will be using the same concrete lap sidings. Site amenities proposed for the development is an active recreation area with a cabana and pool within the subdivision. There will be 10.9 acres to be left for common open space with a proposed nature trail to develop as well. Access to the development will be located off Panola Road and the internal roads will be public.

Several neighborhood meetings were held to address citizen concerns regarding the proposed development. Neighborhood meetings were held on February 26, 2019 and March 14, 2019. The main concerns for most residents were the amount of traffic the new development would generate, overcrowding of schools, quality of life and proper green space for the development.



PLANNING COMMISSION STAFF REPORT

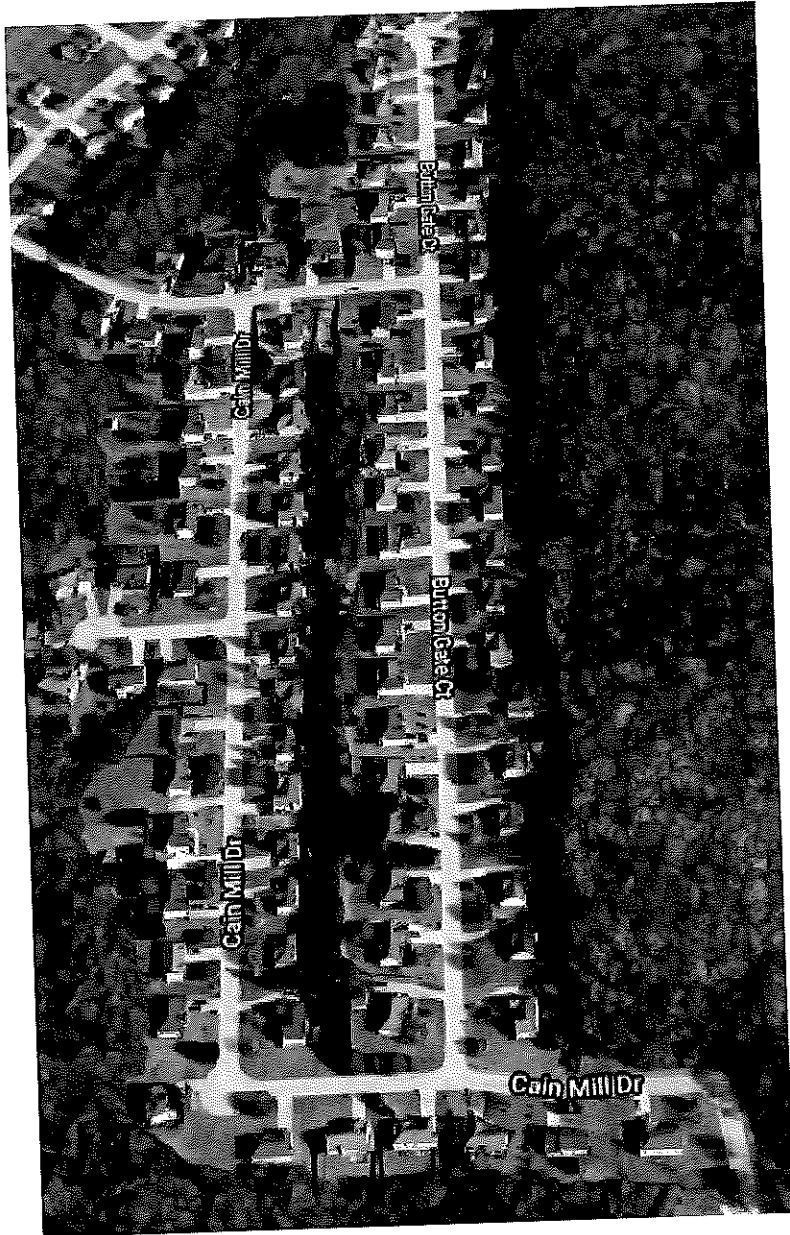
Property located to North of the subject property





PLANNING COMMISSION STAFF REPORT

Property located to West of the subject property (Burlington Subdivision)





PLANNING COMMISSION STAFF REPORT

Properties located to the East of the subject property





PLANNING COMMISSION STAFF REPORT

Properties located to the South of the subject property (Panola Valley Subdivision)





PLANNING COMMISSION STAFF REPORT

STANDARDS OF REVIEW

- **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 proposed R-75 zoning is in line with the recommended use of the suburban character area. The suburban character area calls for single-family detached residential homes which the applicant is proposing.

- **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.**

The zoning proposal will permit a use that is suitable in view of the use and development of the adjacent and nearby properties. The proposed zoning is similar to the surrounding zoning of other single-family developments. However, the zoning proposal could change the character of the area by developing smaller lots and smaller homes within the area.

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

The subject property has reasonable economic use as currently zoned. The subject property current zoning and site conditions allow for a residential subdivision to be developed.

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

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property or properties. The proposed zoning is a residential use which is similar to the residential zoning in the immediate area.

- **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 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.

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

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

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



PLANNING COMMISSION STAFF REPORT

The proposed zoning will not result in use in which will cause excessive or burdensome use of transportation facilities and utilities. The applicant did submit a traffic study showing the proposed development would not cause excessive or burdensome use on existing streets

The development would generate 54 additional students according to DeKalb County School development review. Ten students at Flat Rock ES, six at Salem MS, ten at MLK HS and twenty-four at other DCSD schools. The middle school and high school would have the capacity for additional schools, however, Flat Rock ES does not have the capacity for additional students.

- **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 COMMISSION STAFF REPORT

ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use	Density Non-Residential (SF/Acre) Residential (Units/Acre)
Adjacent: North	R-100 (Vacant)	Single-family Residential	n/a
Adjacent: South	R-100 (Panola Valley Subdivision)	Single-family Residential	n/a
Adjacent: East	R-100 (Detached Single Family)	Single-family Residential	n/a
Nearby: West	R-100 (Burlington Subdivision)	Single-family Residential	n/a

The surrounding area can be characterized as residential zoning tracts. Located to the north of the subject property is vacant property zoned R-100. The Burlington subdivision is located to the west of the subject property and is zoned R-100. Panola Valley Subdivision is located to the south of the subject property and is zoned R-100. Adjacent to the east of the subject property is several detached single-family homes zoned R-100. The proposed use of single-family detached homes would be like the surrounding area.

R-75 zoning is designed to use and structures authorized in the district are designed to serve the housing, recreational, educational, regions and social needs of the neighborhood. The zoning district should provide compatible developments and provide protection for in the existing neighborhoods as new subdivisions are created. R-75 district zoning requires a minimum lot to be 10,000 square feet and the minimum unit's size is 1,600 square feet for single-family detached. The surrounding properties have zoning of R-100 and minimum lots of 15,000 square feet and minimum units size of 2,000 square feet. The proposed zoning use would be compatible but would have smaller lots and small homes.

The City of Stonecrest Future Development Map as shown on page 77 of the City of Stonecrest Comprehensive Plan identifies the subject property as being within the Character Area Suburban Character Area. The intent of the Suburban 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. Policies for this character area is to protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density. The proposed zoning is recommended use for the area however staff believes the development of smaller homes could alter established single-family residential patterns in the area. Still the overall development would be in line with the comprehensive plan goals.

Although the proposed residential use would be compatible with smaller lots and smaller homes. It would appear the applicant proposal does not meet all the standards or review. Staff still has concerns regarding elementary school capacity. The proposed change in zoning is consistent in use and scale with the surrounding uses. Therefore, the proposed change in zoning would be in keeping with the policies and intent of the Comprehensive Plan and would be suitable in view of its impacts on the adjacent and nearby property, therefore, the Department of Community Development recommends **APPROVAL of RZ-19-001**



PLANNING COMMISSION STAFF REPORT

Engineering Zoning Comments

1. There is a project in the Atlanta Regional Commission's Transportation Improvement Plan for improvements on Panola Road (Project #0006880). The scope of the project is one thru lane in each direction, a center left turn lane, and bike lanes on each side. Improvements include curb & gutter, sidewalk, traffic signal enhancements, and geometric improvements. This project is currently scheduled as Long Range with no funding source designated.
2. Curb cut locations and alignments are subject to an approved sight distance plan and the approval of the City of Stonecrest.
 - a. Ensure that the R/W is cleared of all obstructions that may limit the sight-distance of the driver. This includes at a minimum all trees and/or shrubs and fencing. Coordinate all improvements in the R/W with the City of Stonecrest and DeKalb County.
 - b. Line of sight must remain entirely in the right-of-way. Additional right-of-way or a permanent easement may need to be dedicated to meet this requirement.
 - c. Curb cut locations shall meet the minimum requirements for spacing and sight distance and are subject to approval by the City of Stonecrest and DeKalb County.
3. ADA compliant sidewalks are required along Panola Road and along both sides of all proposed streets.
4. Development plans shall meet all the requirements of the City of Stonecrest Development Regulations, Tree Protection, Erosion & Sedimentation Control, Floodplain, and Stream Buffer Ordinances prior to the issuance of a Land Disturbance Permit.
5. A topographic map was not submitted as required by the rezoning application. Topography should extend 200' beyond the site boundaries.
6. Water and sewer approval is required by the DeKalb County Department of Watershed Management.
7. No provision for stormwater detention is shown. Detention facilities should be shown on a separate lot and shall be maintained by the Homeowners Association.
8. The following issues are not in compliance with the City of Stonecrest Land Development Code. Approval of these would require concurrent variances.
 - a. The minimum centerline curve radius is ninety feet (Sec. 14-197). This is violated in at least three locations.
 - b. Panola Road is classified as a major arterial. Right-of-way dedication is required seventy-five feet (75') from the centerline of Panola Road per Sec. 14-191(b).
 - c. A project consisting of greater than 75 lots must have a minimum of two access points per Sec. 14-200(5).



PLANNING COMMISSION STAFF REPORT

RECOMMENDATION

Based on the findings and conclusions, it appears the applicant does meet all the criteria for approval. Therefore Staff recommends **approval RZ-19-001** and be subject to the following conditions:

1. Submit a site plan to the City of Stonecrest Community Development Department that conforms to the requirements of the R-75 zoning district and conditions found herein. The site plan shall be submitted to the Community Development Department for approval prior to application for a Land Disturbance Permit. Said site plan shall contain a maximum of 115 detached single-family units.
2. Dwellings shall have a minimum heated floor area of 1,800 square feet.
3. Building elevations shall be constructed of primarily brick or stone on the front façade. Sides and rear shall contain at least 50 percent brick or stone with the balance being the same, wood shake or fiber-cement siding; final approval will be subject to the review and approval of the Community Development Director.
4. The development shall be limited to a maximum of two (2) entrances on Panola Road. Said entrances shall have adequate spacing and sight distance, and are subject to the approval of the Stonecrest City Engineer.
5. Owner/Developer shall install ADA compliant sidewalks along both sides of all proposed streets.
6. Owner/Developer shall construct a deceleration lane at the proposed entrance to the development on Panola Road (Sec. 14-200(9)a), subject to the approval of the Stonecrest City Engineer.
7. Owner/Developer shall install curb & gutter and a five foot (5') wide sidewalk along the entire frontage of Panola Road. Said sidewalk shall be located so that it will not conflict with the future Panola Road Operations Improvement Project.
8. Owner/Developer shall dedicate additional right-of-way along the entire frontage of Panola Road to provide a minimum of fifty feet (50') from the road centerline, twelve feet (12') from the future back of curb, or two feet (2') from the future back of sidewalk, whichever is greater.
9. All proposed roads shall be designed and constructed in compliance with the City of Stonecrest Development Regulations, including a minimum centerline radius of ninety feet (90'), subject to the approval of the City Engineer.
10. Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition. Detention facilities must be on a separate lot and shall be maintained by the Homeowners Association.
11. Owner/Developer shall comply with the City of Stonecrest Tree Protection Ordinance concerning tree protection and replacement. A minimum on-site tree density of fifteen (15) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree recompense units as required in the ordinance.
12. Water and sewer approval is required by the DeKalb County Department of Watershed Management.



PLANNING COMMISSION STAFF REPORT

PLANNING COMMISSION RECOMMENDATIONS

1. Submit a site plan to the City of Stonecrest Community Development Department that conforms to the requirements of the R-75 zoning district and conditions found herein. The site plan shall be submitted to the Community Development Department for approval prior to application for a Land Disturbance Permit. Said site plan shall contain a maximum of 115 detached single-family units.
2. Dwellings shall have a minimum heated floor area of 1,800 square feet.
3. The proposed subdivision will be built out with Craftsman Style Homes which facades shall be constructed of a combination of two or more façade materials, including, fiber-cement siding, wood shake, clapboard, brick, and/or stone. The final building elevations shall be subject to the review and approval of the Community Development Director, which approval shall not be unreasonably withheld, delayed or conditioned.
4. The development shall be limited to a maximum of two (2) entrances on Panola Road. Said entrances shall have adequate spacing and sight distance and are subject to the approval of the Stonecrest City Engineer.
5. Owner/Developer shall install ADA compliant sidewalks along both sides of all proposed streets.
6. Owner/Developer shall construct a deceleration lane at the proposed entrance to the development on Panola Road (Sec. 14-200(9)a), subject to the approval of the Stonecrest City Engineer.
7. Owner/Developer shall install curb & gutter and a five foot (5') wide sidewalk along the entire frontage of Panola Road. Said sidewalk shall be located so that it will not conflict with the future Panola Road Operations Improvement Project.
8. Owner/Developer shall dedicate additional right-of-way along the entire frontage of Panola Road to provide a minimum of fifty feet (50') from the road centerline, twelve feet (12') from the future back of curb, or two feet (2') from the future back of sidewalk, whichever is greater.
9. All proposed roads shall be designed and constructed in compliance with the City of Stonecrest Development Regulations, including a minimum centerline radius of ninety feet (90'), subject to the approval of the City Engineer.
10. Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition. Detention facilities must be on a separate lot and shall be maintained by the Homeowners Association.
11. Owner/Developer shall comply with the City of Stonecrest Tree Protection Ordinance concerning tree protection and replacement. A minimum on-site tree density of fifteen (15) units/acre shall be required.



PLANNING COMMISSION STAFF REPORT

Any specimen trees removed during the redevelopment shall require additional tree recompense units as required in the ordinance.

12. Water and sewer approval is required by the DeKalb County Department of Watershed Management.
13. The front entrance to the subdivision shall contain a landscaped area with a monument sign.
14. The amenity area shall contain, amongst other things, a walking trail, playground, grilling area with seating, and a gazebo/cabana.
15. Simultaneously with the recording of the final plat for the proposed subdivision, the City shall be provided with proof that a Homeowner's Association has been formed as the legal mechanism used to own all open space and govern the enforcement of all covenants and restrictions pertaining to the subdivision, including the following:
 - a. Equal access and right of use to all open space by all homeowners;
 - b. Mandatory and automatic membership in the homeowners' association for all homeowners and their successors;
 - c. A fair and uniform method of assessment and collection/payment for dues, maintenance and related costs;
 - d. Homeowners' association lien authority to ensure the collection of dues from all members and compliance with covenants and restrictions;
 - e. Perpetual and continued maintenance and liability by the homeowners' association of land held as open space;
 - f. Architectural Review Committee regarding approval of exterior improvements to lots and yards;
 - g. Prohibition on short-term rentals of less than six (6) months;
 - f. Homeowner notification of Homeowner's Association of long-term rentals of six (6) months or more; and
 - h. Filing of all required covenants, declarations, and restrictions with the Clerk of the Superior Court of DeKalb County.

19-000057

RECEIVED DEC 04 2018

RECEIVED DEC 04 2018



PRE-APPLICATION FORM
LAND USE PETITIONS AND VARIANCE PETITIONS

Planning/Zoning
CW

Purpose & Process

A Pre-Application Meeting provides you the opportunity to present a conceptual plan and letter of intent to a representative of the Community Development Department. This meeting benefits you, the applicant, by receiving general comments on the feasibility of the plan, the process(es) procedure(s) and fees required to process and review the application(s). To schedule a meeting contact a member of the Planning and Zoning Department by calling (770) 224-0200. This form will be completed during the pre-application meeting, and must be submitted at the same time you submit your application in order for your submittal to be deemed complete.

Applicant Name: Blue River Development, LLC Phone: _____
Applicant E-mail: bcooper@blueriverdevelopment.com Fax: _____
Representative Name: Michele L. Battle Phone: (404) 601-7616
Representative E-mail: mlb@battlelawpc.com Fax: (404) 745-0045
Site Address: 4001 + 3989 Panola Rd. Parcel Size: 53 acres
Tax Parcel #: 16 019 01 003 + 16 019 01 015 City Council District: District 4
Existing Zoning and Case Number: _____ Proposed Zoning: R-75

Comprehensive Plan Character Area Map Designation: Suburban

- Application Type: Rezoning Special Land Use Permit Variance Special Exception
- Variance Type: Administrative Zoning Board of Appeals Stream Buffer
- Overlay District: I-20 Stonecrest
- Additional Studies: Trip Generation Report Traffic Impact Study
 Development of Regional Impact Review Environmental Impact Review

Proposal Description: development of 115 detached single-family homes w/ open green space and amenities

Applicant Signature: [Signature] Date: 6/25/18
Planner Signature: [Signature] Date: 6/25/18

R2-19-001
-Entered 1-7-19



Amendment Application

Owner Information
 Property Information
 Questionnaire

Owner's Name: Robert Dane Wagner			
Owner's Address: 4001 Panola Road, Lithonia, GA 30038			
Phone:	Fax:	Email:	Parcel Size: 53.16 acres
Property Address: 4001 Panola Rd. & 3989 Panola Rd.			
Parcel ID: 16-019-01-003 & 16-019-01-015			
Current Zoning Classification: R-100			
Requested Zoning Classification: R-75			
Name: Blue River Development, 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		
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? <input type="checkbox"/> Yes <input type="checkbox"/> No			
1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties? Please see attached Statement of Intent and Impact Analysis			
2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned?			
3. Will the zoning proposal 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?			
5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources?			
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?			



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.

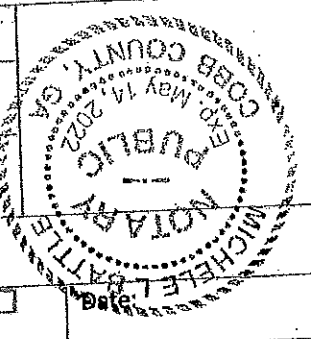
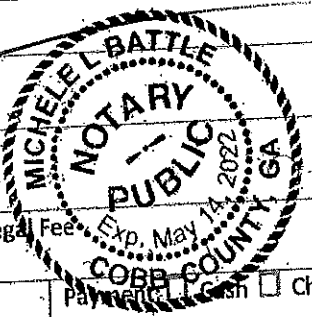
Affidavit
Notary
Fee

Applicant's Name: Blue River Development, LLC

Applicant's Signature: [Signature] Date: 12-3-18

Sworn to and subscribed before me this 4th Day of December 2018

Notary Public: [Signature]
Signature:
My Commission Expires:



Application Fee Sign Fee Legal Fee

Fee: \$ [blank] Payment: Cash Check CC

Approved Approved with Conditions Denied

Date:

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



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.

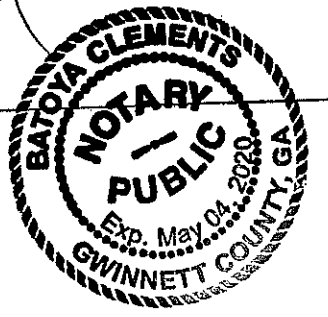
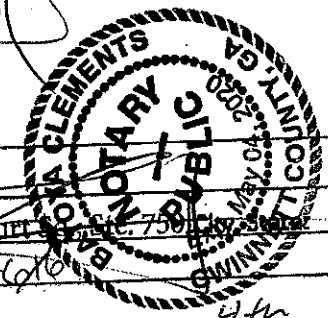
Property Owner (if Applicable)	Signature: <i>[Handwritten Signature]</i>		Date: <i>28 Aug 2018</i>
	Address: 4001 Panola Road	City, State: Lithonia, GA	Zip: 30038
	Phone:		
Property Owner (if Applicable)	Sworn to and subscribed before me this <i>28</i> day of <i>August</i>		
	Notary Public: <i>[Handwritten Signature]</i>		
	Signature:		
Property Owner (if Applicable)	Address:	City, State:	Zip:
	Phone:		
	Sworn to and subscribed before me this _____ day of _____, 20____		
Property Owner (if Applicable)	Notary Public:		Date:
	Signature:		
	Address:	City, State:	Zip:
Property Owner (if Applicable)	Phone:		
	Sworn to and subscribed before me this _____ day of _____, 20____		
	Notary Public:		



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: 11-3-18
	Address: 410 Peachtree Parkway, Suite 4245		City, State: Cumming, GA Zip: 30041
	Phone: (404) 797-7325		
Sworn to and subscribed before me this <u>4th</u> day of <u>Dec.</u> , 20 <u>18</u>			
Notary Public:			
Attorney / Agent	Signature:		Date:
	Address: One West Court, Ste. 750		Decatur, GA Zip: 30030
	Phone: (404) 601-7616		
Sworn to and subscribed before me this <u>4th</u> day of <u>Dec</u> , 20 <u>18</u>			
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

Blue River Development, LLC

Applicant / Owner	Signature: <i>Bj</i>
	Address:
	Date: <i>12-3-18</i>

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

Battle Law PC / Michele L. Battle

Applicant / Owner	Signature:	
	Address:	One West Court Sq., Suite 750, Decatur GA
	Date:	12/4/2018

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

Date	Government Official	Official Position	Description	Amount

STATEMENT OF INTENT AND
IMPACT ANALYSIS

and

Other Material Required by
City of Stonecrest Zoning Ordinance
for the
Application for Zoning Amendment

of

Blue River Development, LLC
c/o Battle Law, P.C.

for

53.16± acres of land located at
3989 Panola Road and 4001 Panola Road
From
R-100 to R-75
City of 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

I. LETTER OF INTENT

The Subject Property is an assemblage of the two (2) tracts of land being 3989 Panola Road and 4001 Panola Road having an aggregate acreage of +/- 53.16 acres. The Subject Property is current improved with two single family homes built between the 1930s and 1940s. The Applicant, Blue River Development, LLC, is seeking to develop a 115 unit single-family residential subdivision on the Subject Property, which is currently zoned R-100, with a land use designation of Suburban. The Applicant is seeking to rezone the Subject Property to R-75 with a minimum lot size of 10,000 sq. ft. and 75 ft. of frontage. The Subject Property has severe topography in the center of the Subject Property near the southern boundary line and rock outcropping in multiple locations on the Subject Property. As a result of these environmental features it is the Applicant's contention that the only reasonable way to develop the Subject Property is rezone the subject property to R-75, which allows for a smaller lots, while still maintaining the character of the area.

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 Impact Analysis of this Application as required by the City of Stonecrest Zoning Ordinance, § 27-7.3.5. A surveyed plat and site plan of the Subject Property has been filed contemporaneously with the Application, along with other required materials.

II. IMPACT ANALYSIS

A.

THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COMPREHENSIVE PLAN

The Subject Property is designated Suburban under the DeKalb Comprehensive Land Use Plan through 2035. It is the Applicant's contention that the proposed rezoning is in conformity the following policies:

1. Promote new communities that feature greenspace and neighborhood parks, pedestrian circulation transportation options, and appropriate mix of uses and housing types:
2. Encourage the preservation of open space, farmland, natural and critical environmental areas
3. Implement zoning tools that preserve open space, natural resources and the environment
4. Preserve trees and other natural resources to protect the environment and aesthetically enhance communities.

B.

THE PROPOSED REZONING PERMITS A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY.

The proposed rezoning to R-75 will permit the continued development of single family

detached housing along the Panola Road corridor. The southern end of Panola Road near the South River has not had a significant new develop over the past fifteen. Furthermore, it is in the best interest of the surrounding community to reduce the amount of disturbance within the environmentally sensitive areas located on the Subject Property.

C.

**THE SUBJECT PROPERTY DOES NOT HAVE A
REASONABLE ECONOMIC USE AS PRESENTLY ZONED.**

The Subject Property as currently zoned has marginal value, due to the costs associated with the development of the Subject Property in its entirety to achieve a marketable lot yield. The Applicant and the owners respectfully submit that the Stonecrest Zoning Ordinance, to the extent that it classifies the Subject Property in any zoning district which would preclude the development of this project, is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth herein. Any existing inconsistent zoning of the Subject Property pursuant to the Stonecrest County Zoning Ordinance deprives the current owner of any alternative reasonable use and development of the Subject Property. Additionally, all other zoning classifications, including ones intervening between the existing classification and the one requested herein, would deprive the current owner of any reasonable use and development of the Subject Property. Further, an attempt by the Board of Commissioners to impose greater restrictions upon the manner in which the Subject Property will be developed than presently exist, such as by way of approving the zoning district requested but limiting development to standards allowed under more stringent zoning classifications, would be equally unlawful.

The Applicant submits that the current zoning classification and any other zoning of the Subject Property save for what has been requested by it as established in the Stonecrest Zoning Ordinance constitute an arbitrary and unreasonable use of the zoning and police powers because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant. All inconsistent zoning classifications between the existing zoning and the zoning requested hereunder would constitute an arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality or general welfare of the public and would substantially harm the Applicant. Further, the existing inconsistent zoning classifications constitute, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this project would constitute a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that the Board of Commissioners' failure to approve the requested zoning change would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

The Applicant respectfully submits that the Board of Commissioners cannot lawfully

impose more restrictive standards upon the development of the Subject Property than presently exist as to do so not only would constitute a taking of the Subject Property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

Finally, the Applicant protests any action which would prohibit development of the Subject Property as requested inasmuch as the Zoning Ordinance was adopted in violation of or in other respects does not comply with the Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq. and minimum procedural due process standards guaranteed by the Constitutional provisions set forth above.

This Application meets favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power, Guhl vs. Holcomb Bridge Road, 238 Ga. 322 (1977).

D.

**THE PROPOSED REZONING WILL NOT ADVERSELY AFFECT THE EXISTING
USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY**

The proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby property. As noted above, development patterns in the area are entirely consistent with the proposed use for the Subject Property.

E.

**OTHER EXISTING OR CHANGING CONDITIONS
AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY**

The area in which the Subject Property is a residential community. The Subject Property is currently underdeveloped due in part to the environmental challenges with the Subject Property. When this is factored in with the increasing construction costs for the development of residential subdivisions, and the stagnate house values in the area, the cost of developing the Subject Property is cost prohibitive without allowing for a reduction in the lot size by rezoning the Subject Property to R-75.

F.

**THE ZONING PROPOSAL WILL NOT
ADVERSELY AFFECT HISTORIC BUILDINGS,
SITES, DISTRICTS OR ARCHAEOLOGICAL RESOURCES**

The Applicant knows of no historic buildings, sites, districts, or archaeological resources either on the Subject Property or located in the immediate vicinity that would suffer adverse impacts from the rezoning requested.

G.

**THE REQUESTED REZONING WILL NOT RESULT IN A USE WHICH
WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING
STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS**

The proposed rezoning, if approved, will not affect existing transportation facilities or utilities, and it will not negatively impact the schools in the area, which are Flat Rock Elementary

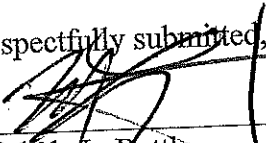
is above capacity, but Salem Middle School and Martin Luther King Jr. High School are both below capacity, according to the DeKalb County Public School 2018 Facility Report. With respect to sanitary sewer capacity, the Applicant has submitted a Sewer Capacity Request Letter for the area.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application. Please note that the Applicant's Notice of Constitutional Allegations and Preservation of Constitutional Rights have been submitted with this Application and are attached hereto and by this reference incorporated herein.

This 4th day of December, 2018.

Respectfully submitted,



Michèle L. Battle
Attorney For Applicant

NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The portions of the 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 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 Stonecrest City Council to 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 Subject 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 hereinabove.

A refusal to allow the 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 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 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 Subject Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional 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 County 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 and owner's property rights.

Public Participation Plan

Applicant: Blue River Development, LLC

1. The applicant will send out notices for the proposed community meeting to those property owners identified in the property owner list generated by the City of Stonecrest and provided to the applicant at the time of submission of this application.
2. The property owners will be notified of the community meeting by postcard.
3. The applicant will hold a community meeting at 7:00pm at a location to be determined, which will be at a location within a one to two mile radius of the subject property.
4. Mailing list and copy of the letter to be mailed will be attached.

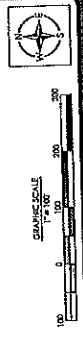
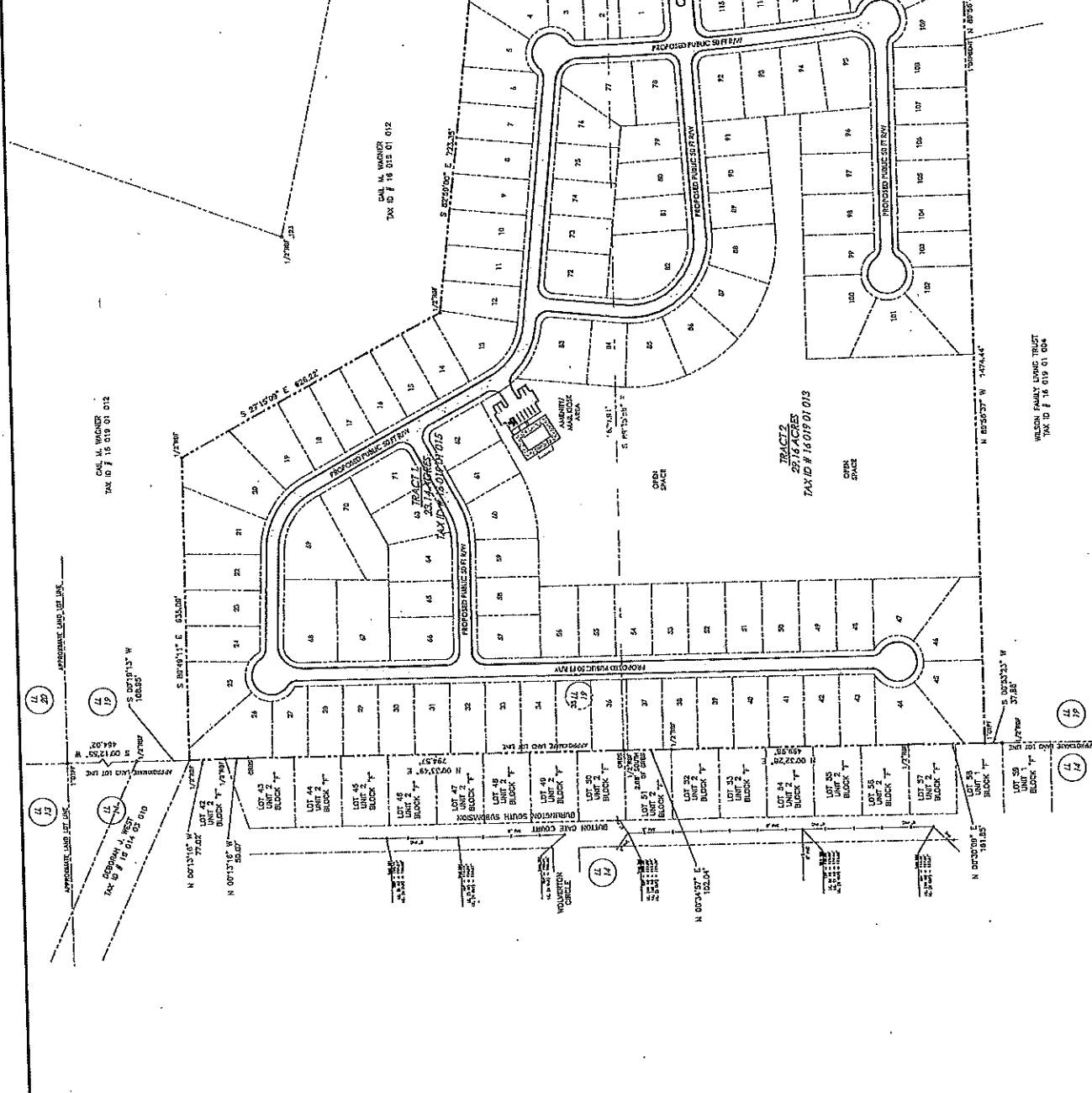
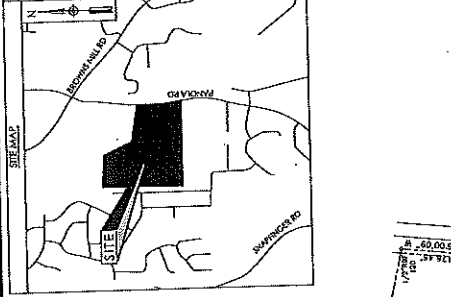
Environmental Site Analysis (ESA)

1. **Conformance with the Comprehensive Plan.** The Subject Property is located near the southeastern corner of Panola Road and Browns Mill Road located in the City of Stonecrest. The DeKalb County Comprehensive Map, which Stonecrest temporarily adopted, shows the Subject Property as having land use designations of Suburban. The two parcels are not within any overlay district. It is the Applicant's intent to amend the zoning map from R-100 to R-75 to allow for the development of 115 single-family homes.
2. **Environmental Impacts of the Proposed Project.**
 - (a) **Wetlands.** According to the National Wetlands Inventory Wetlands Mapper, the Subject Property is not located within any area designated as Wetlands.
 - (b) **Floodplain.** According to the FEMA National Flood Hazard interactive mapping system, the Subject Property is in an area of minimal flood hazard Zone X.
 - (c) **Streams/stream buffers.** Based on fields observation and verification by the Applicant's surveyor, there are wetlands located on the Subject Property. The Applicant has identified them and has included the required stream buffers.
 - (d) **Slopes exceeding 33 percent over a 10-foot rise in elevation.** Based on fields observation and verification by the Applicant's surveyor, there are no slopes exceeding 33 percent over a 10-foot rise in elevation on the Subject Property.
 - (e) **Vegetation (including endangered species).** The Subject Property is heavily wooded, however, to the Applicant's knowledge, based on field observation there are no endangered species located on the Subject Property.
 - (f) **Wildlife Species (including fish and endangered species).** Based on field observation, to the Applicant's knowledge, there are no endangered species located on the Subject Property.
 - (g) **Archeological/Historical Sites.** Based on field observation, to the Applicant's knowledge, there are no archeological or historical sites located on the Subject Property.
3. **Project Implementation Measures**
 - (a) **Protection of environmentally sensitive areas.** There are no environmentally sensitive areas located on the Subject Property. However, the Subject Property will be in compliance with all stream buffer requirements.
 - (b) **Protection of water quality.** All stormwater runoff generated from a site shall be adequately treated before discharge in accordance with the City of Stonecrest.
 - (c) **Minimization of negative impacts on existing infrastructure.** The existing infrastructure surrounding the Subject Property will not be negatively impacted by the development of the proposed project. It is the Applicant's intent to comply with all City of Stonecrest development regulations, and to connect into the existing utilities in the area in order to minimize disturbance.

- (d) **Minimization on archeological/historically significant area.** To the Applicant's knowledge, there are no archeological/historically significant areas located on or near the Subject Property.
- (e) **Minimization of negative impacts on environmentally stressed communities.** The proposed uses in the proposed project will be for residential uses which are compatible with nearby communities, as the use will be contained and to the knowledge of Applicant, will not generate any measurable dust, vibrations, odor, glare, emissions or noise beyond the Subject Property.
- (f) **Creation and preservation of green space and open space.** The proposed project will result in the removal of trees from the Subject Property. As the proposed project is for a residential use, there will still be a significant amount of green space located on the Subject Property as shown on the site plan and required under the City's land development ordinance.
- (g) **Protection of citizens from the negative impacts of noise and lighting.** All lighting and noise on the Subject Property will be in compliance with the City rules and regulations, and in accordance with the City's noise regulations.
- (h) **Protection of parks and recreational green space.** To the Applicant's knowledge, there are no parks or recreational green space in the area.
- (i) **Minimization of impacts to wildlife habitats.** To the Applicant's knowledge, there are no wildlife habitats on or near the Subject Property.

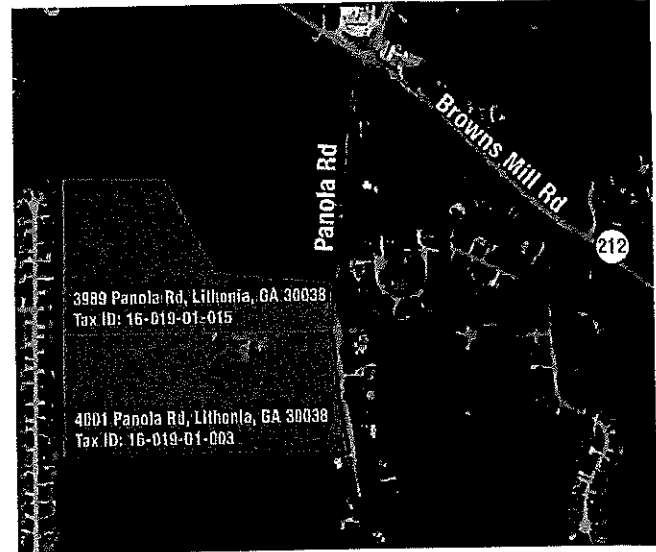
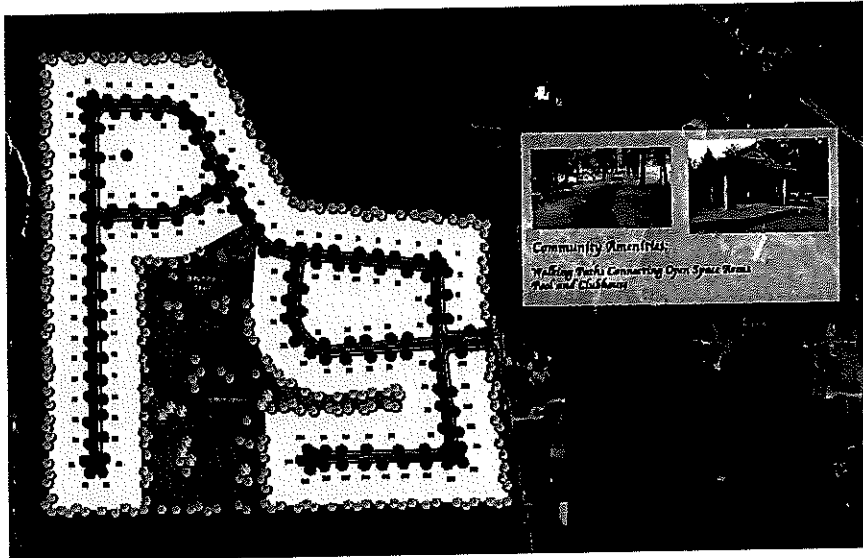
NOTES:
 1. TRACT 1: 2.16 ACRES
 TRACT 2: 2.11 ACRES
 TOTAL: 4.27 ACRES
 PROPOSED ZONING: R-7.5
 PROPOSED LOT AREA: 10,000 SQ FT
 PROPOSED LOT WIDTH: 22 FT
 PROPOSED LOT DEPTH: 45 FT
 PROPOSED LOT AREA: 10,000 SQ FT
 PROPOSED LOT WIDTH: 22 FT
 PROPOSED LOT DEPTH: 45 FT
 PROPOSED LOT AREA: 10,000 SQ FT
 PROPOSED LOT WIDTH: 22 FT
 PROPOSED LOT DEPTH: 45 FT

CONCEPTUAL LAYOUT NOTES:
 1. ALL DIMENSIONS AND BEARING DETERMINATIONS HAVE BEEN OBTAINED FROM THE SURVEY AND FIELD MEASUREMENTS.
 2. ALL DIMENSIONS AND BEARING DETERMINATIONS HAVE BEEN OBTAINED FROM THE SURVEY AND FIELD MEASUREMENTS.
 3. ALL DIMENSIONS AND BEARING DETERMINATIONS HAVE BEEN OBTAINED FROM THE SURVEY AND FIELD MEASUREMENTS.
 4. ALL DIMENSIONS AND BEARING DETERMINATIONS HAVE BEEN OBTAINED FROM THE SURVEY AND FIELD MEASUREMENTS.



Kings Ridge

The city of Stoncrest



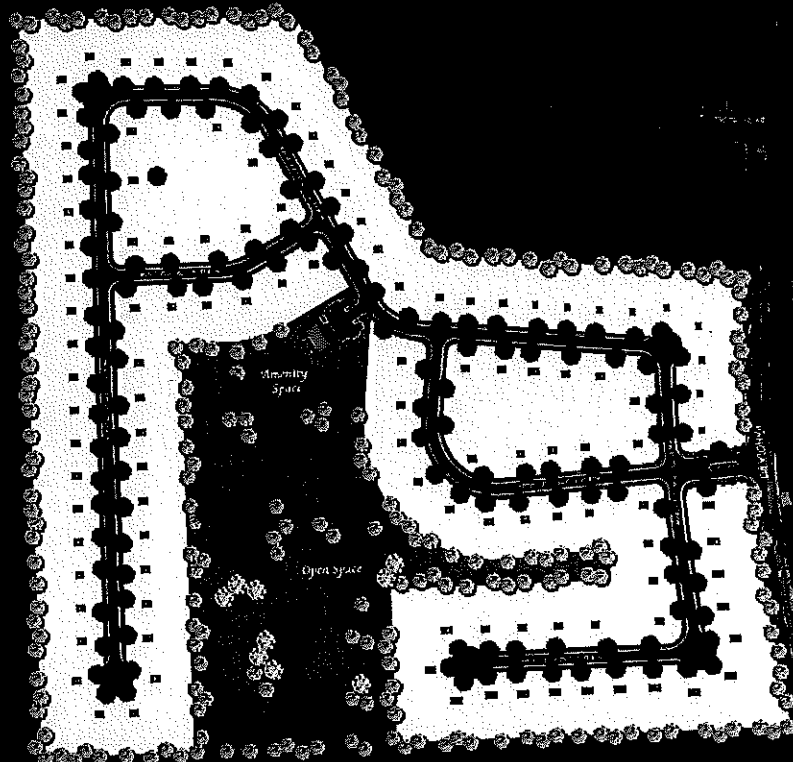
The Applicant, Blue River Development, LLC, requests a rezoning from R-100 to R-75 for the purpose of developing a residential project. The subject property is located off Panola Road in Lithonia, Dekalb County. The property contains a total of 53.16 acres. The Developer has proposed a plan for this property that corresponds with the existing area and trends of today.

The proposed development features 20% of the property, or 10.9 acres to be used for common open space. There is also proposed to be an active recreation area with a cabana and a pool within the community. Access to the property will be by one main entrance from Panola Road. Sidewalks are planned to connect the entire community. The applicant is also proposing to provide additional parking to service the community amenities.

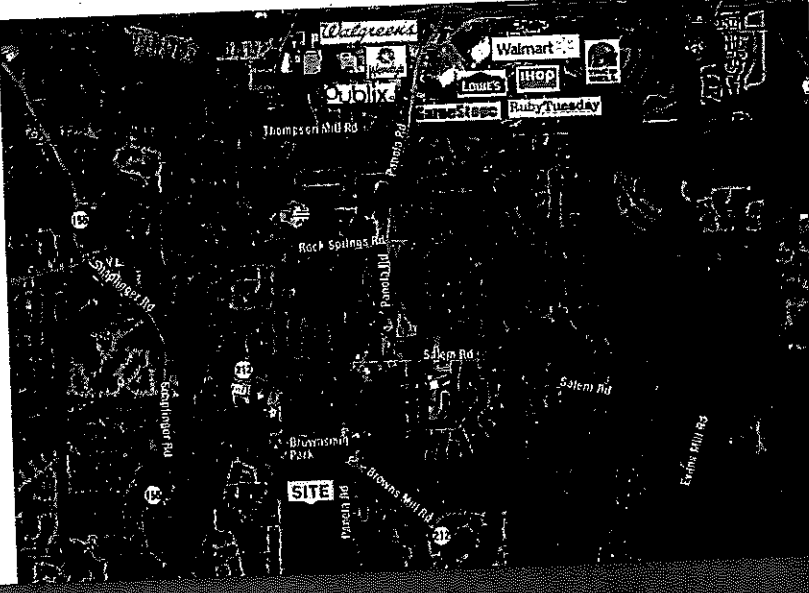
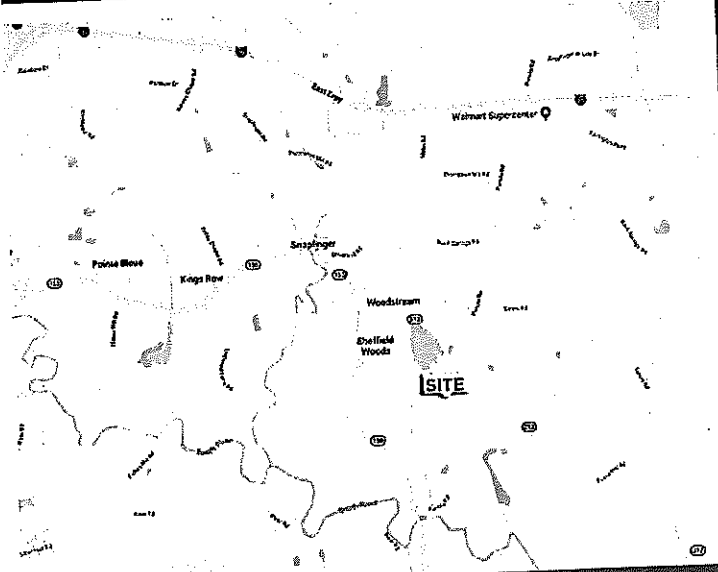
This residential project is proposed to consist of 115 detached homes varying in size, with a minimum size ranging from 1,600, however most homes will be larger depending on the home/floor plan selected by the buyer. The front facades of the homes will be a mixture of brick or stone with accents of concrete siding. The sides and rear facades of the residential units will be the same or all concrete lap siding. The units will have granite countertops, stainless steel appliances, 9 foot ceilings, and many other additional upgrades will be available. The buildings will be two-stories tall with a maximum height of thirty five (35) feet with a starting price point in the \$300,000 range.

Kings Ridge

The city of Stoncrest



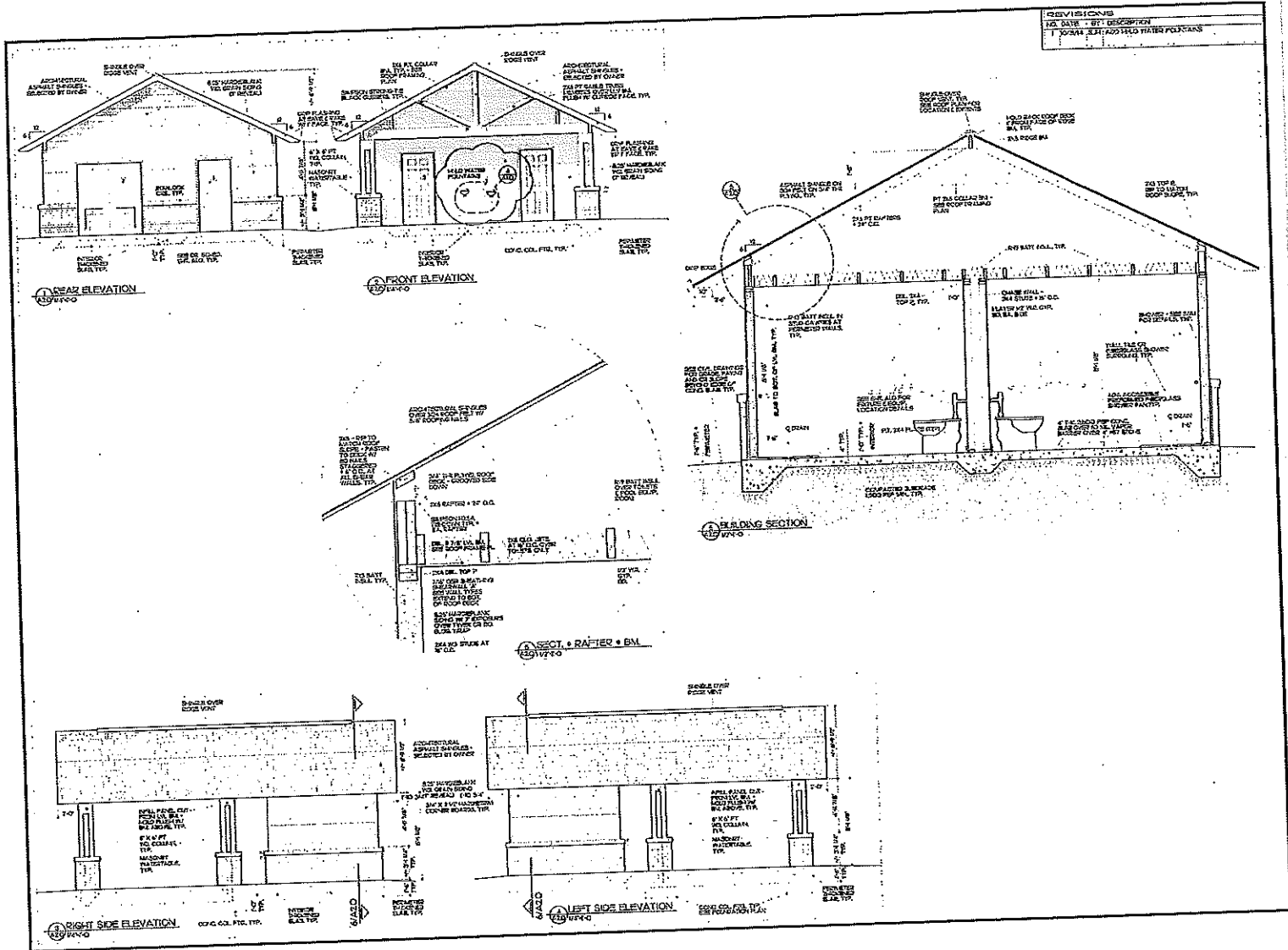
Community Amenities:
Walking Paths Connecting Open Space Areas
Pool and Clubhouse



BLUE RIVER
DEVELOPMENT, LLC
BROKERAGE | DEVELOPMENT | CONSULTING

Kings Ridge

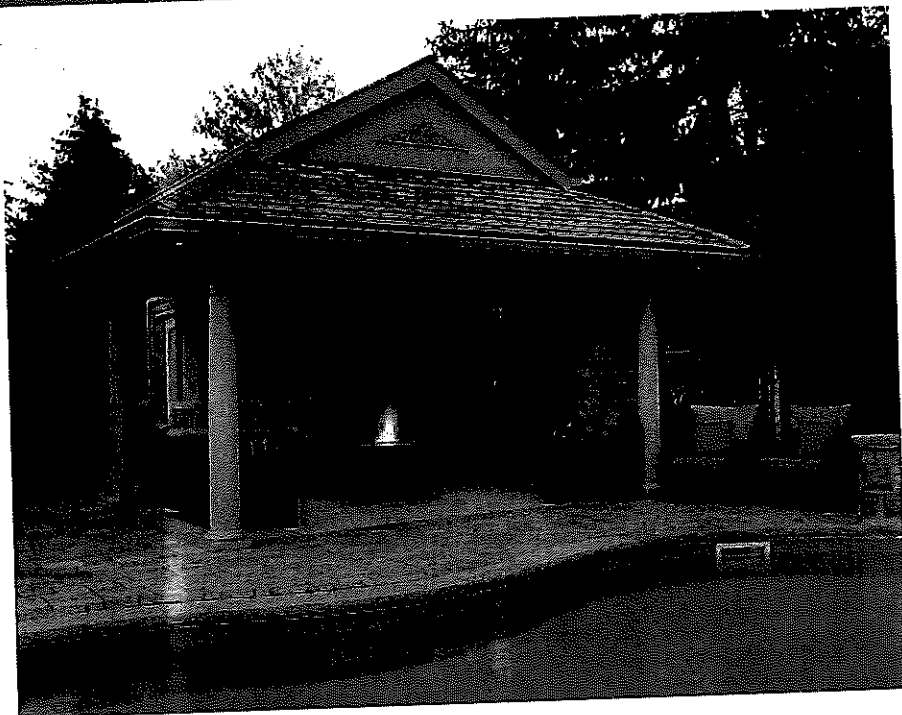
The city of Stoncrest



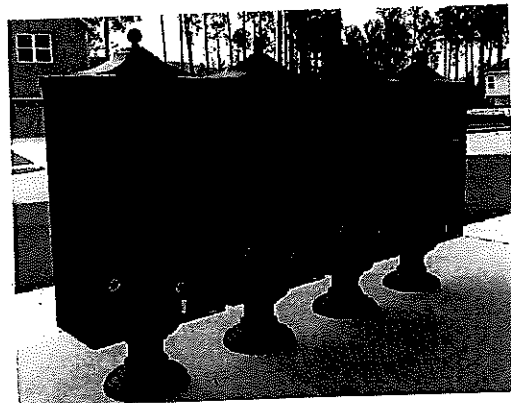
Amenities/Cabana Drawing & Elevations

Kings Ridge

The city of Stoncrest



Amenities Pool/Cabana



Mail Kiosk



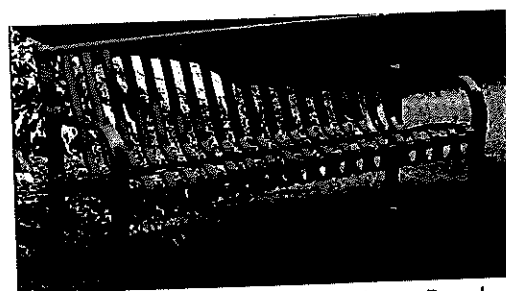
Trees Enhance Shading and Seasonal Color



Streetscape



Lawn Area



Lawn Benches

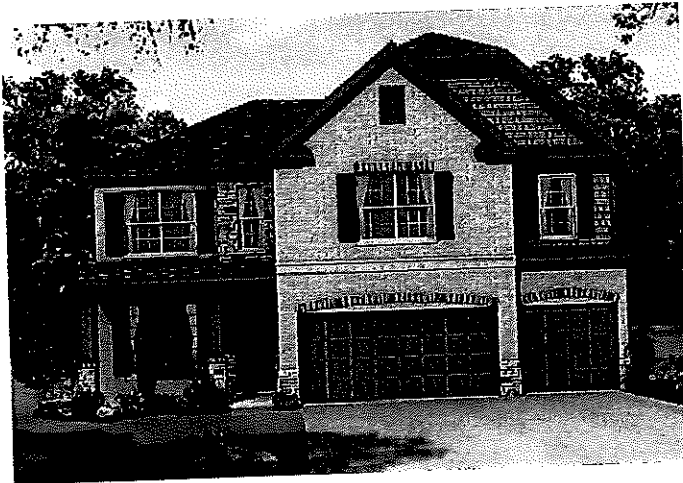
BLUE RIVER
DEVELOPMENT, LLC
BROKERAGE | DEVELOPMENT | CONSULTING

Embassy | Suite 504 | Cumming, GA 30041 | blueriverdevelopment.com

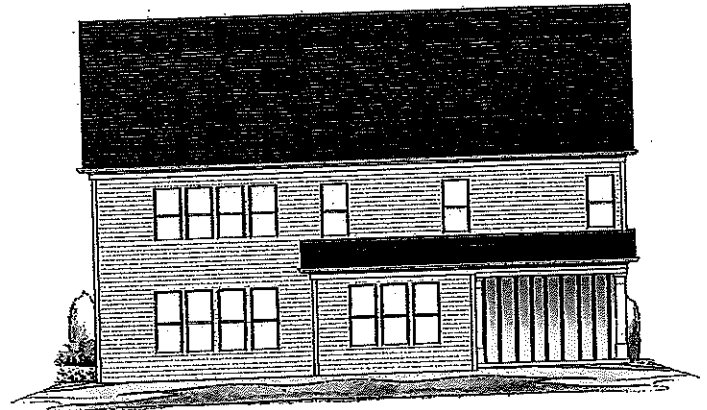
Kings Ridge

The city of Stoncrest

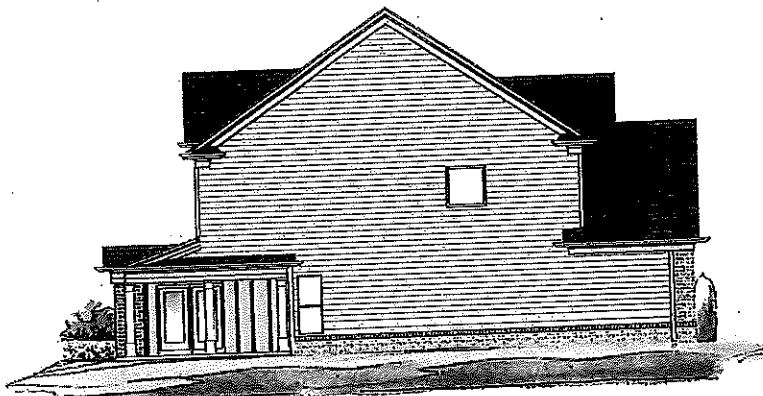
40' Wide Single Family Detached Series



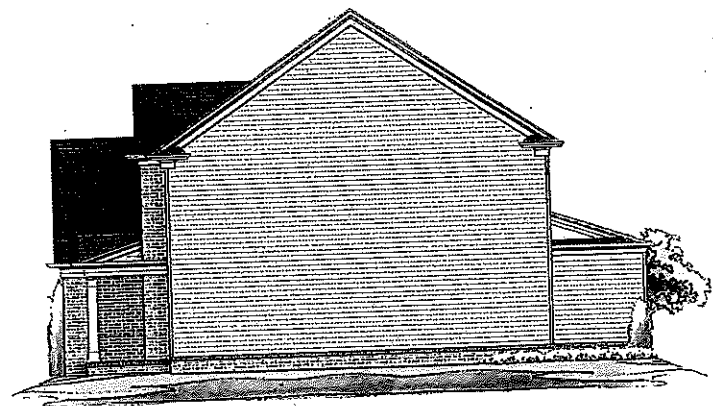
Front Elevation



Rear Elevation



Left Elevation



Right Elevation

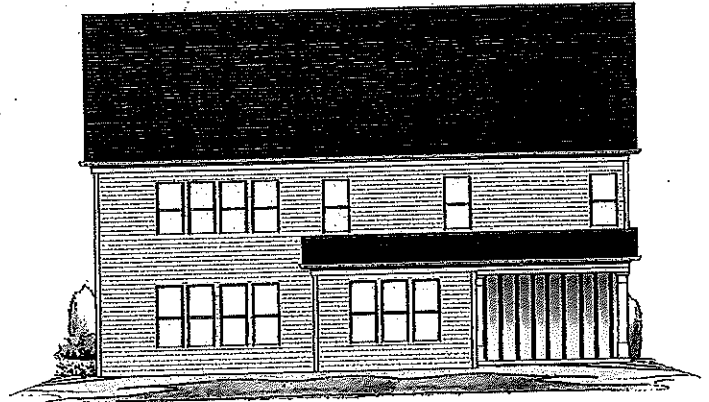
Kings Ridge

The city of Stoncrest

40' Wide Single Family Detached Series



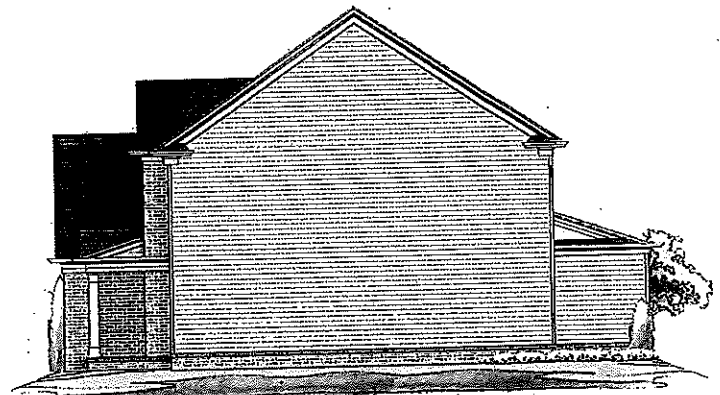
Front Elevation



Rear Elevation



Left Elevation



Right Elevation

Kings Ridge

The city of Stoncrest

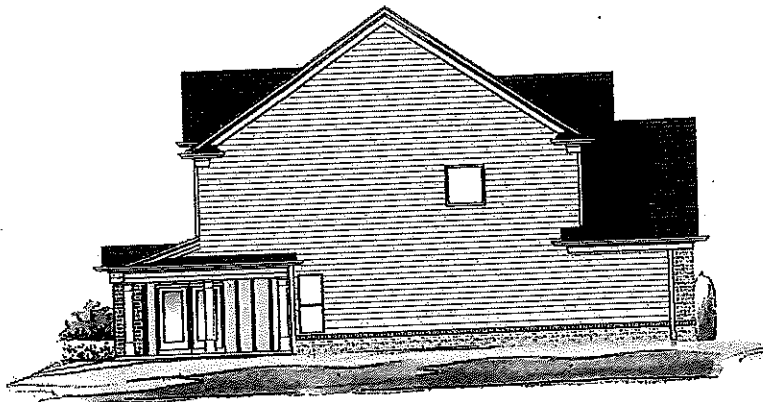
40' Wide Single Family Detached Series



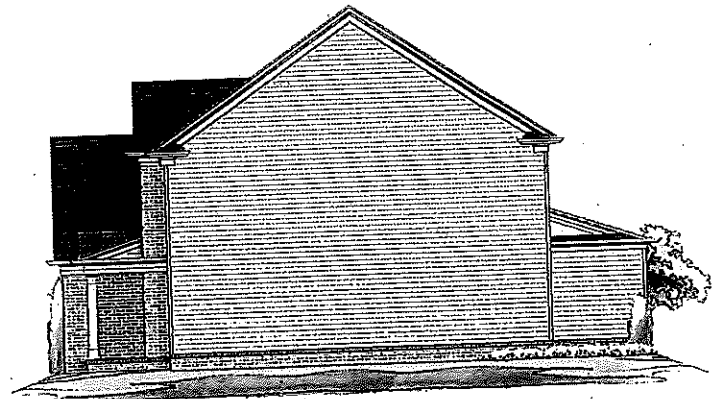
Front Elevation



Rear Elevation



Left Elevation



Right Elevation

LEGAL DESCRIPTION TOTAL TRACT

All that certain parcel of land lying and being in Land Lot 19 of the 16th Land District of DeKalb County, City of Stonecrest, Georgia, according to a survey prepared by Maxwell-Reddick and Associates, Inc., bearing the signature of Denver W. Youngblood, containing 52.30 acres which reads as follows:

COMMENCING at a one inch open top pipe found (1" OTP) at the Land Lot corner common to Land Lots 13, 14, 19 & 20, THENCE along the Land Lot line common to Land Lots 14 & 19 South 00°00'55" West a distance of 464.02' to a one half inch rebar found (1/2" RBF); THENCE along the Land Lot line common to Land Lots 14 & 19 South 00°19'13" West a distance of 108.95' to a one half inch rebar found (1/2" RBF) which is the POINT OF BEGINNING.

BEGINNING at said one half inch rebar found (1/2" RBF); THENCE South 89°49'11" East a distance of 635.09' to a one half inch rebar found (1/2" RBF); THENCE South 27°15'09" East a distance of 626.22' to a one half inch rebar found (1/2" RBF); THENCE South 82°59'00" East a distance of 723.35' to a one half inch rebar found (1/2" RBF) on the western right-of-way of Panola Road (70' R/W); THENCE along the western right-of-way of Panola Road (70' R/W) counterclockwise on the arc of a curve (Radius = 4105.43', Arc = 286.17') which subtends a chord of South 01°26'56" West a distance of 286.11' to a capped rebar set (CRBS); THENCE along the western right-of-way of Panola Road (70' R/W) counterclockwise on the arc of a curve (Radius = 3773.18', Arc = 445.35') which subtends a chord of South 04°23'09" East a distance of 445.10' to a capped rebar set (CRBS); THENCE along the western right-of-way of Panola Road (70' R/W) counterclockwise on the arc of a curve (Radius = 20145.16', Arc = 249.57') which subtends a chord of South 08°10'23" East a distance of 249.57' to a capped rebar set (CRBS); THENCE along the western right-of-way of Panola Road (70' R/W) South 09°49'58" East a distance of 64.19' to a one inch crimped top pipe found (1" CTPF); THENCE leaving the right-of-way of Panola Road North 89°56'41" West a distance of 253.08' to a one inch open top pipe found (bent) (1" OTPF); THENCE North 89°56'37" West a distance of 1474.44' to a one inch crimped top pipe found (1" CTPF) on the Land Lot line common to Land Lots 14 & 19; THENCE along the Land Lot line common to Land Lots 14 & 19 North 00°30'09" East a distance of 161.85' to one half inch rebar found (1/2" RBF); THENCE along the Land Lot line common to Land Lots 14 & 19 North 00°32'28" East a distance of 499.98' to a one half inch rebar found (1/2" RBF); THENCE along the Land Lot line common to Land Lots 14 & 19 North 00°34'57" East a distance of 102.04' to a capped rebar set (CRBS); THENCE along the Land Lot line common to Land Lots 14 & 19 North 00°33'49" East a distance of 794.57' to a capped rebar set (CRBS); THENCE along the Land Lot line common to Land Lots 14 & 19 North 00°13'16" West a distance of 50.07' to a one half inch rebar found (1/2" RBF); THENCE along the Land Lot line common to Land Lots 14 & 19 North 00°13'16" West a distance of 77.02' to a one half inch rebar found (1/2" RBF) which is the POINT OF BEGINNING.

Said parcel bound as follows:

NORTH by property of Gail M. Wagner.

EAST by the western right-of-way of Panola Road.

SOUTH by property of Wilson Family Living Trust.

WEST by various lots of Burlington South Subdivision, Unit 1 & Unit 2.

LEGAL DESCRIPTION TRACT #1

All that certain parcel of land lying and being in Land Lot 19 of the 16th Land District of Dekalb County, City of Stonecrest, Georgia, according to a survey prepared by Maxwell-Reddick and Associates, Inc., bearing the signature of Denver W. Youngblood, containing 23.14 acres which reads as follows:

COMMENCING at a one inch open top pipe found (1" OTP) at the Land Lot corner common to Land Lots 13, 14, 19 & 20, THENCE along the Land Lot line common to Land Lots 14 & 19 South 00°00'55" West a distance of 464.02' to a one half inch rebar found (1/2" RBF); THENCE along the Land Lot line common to Land Lots 14 & 19 South 00°19'13" West a distance of 108.95' to a one half inch rebar found (1/2" RBF) which is the POINT OF BEGINNING.

BEGINNING at said one half inch rebar found (1/2" RBF); THENCE South 89°49'11" East a distance of 635.09' to a one half inch rebar found (1/2" RBF); THENCE South 27°15'09" East a distance of 626.22' to a one half inch rebar found (1/2" RBF); THENCE South 82°59'00" East a distance of 723.35' to a one half inch rebar found (1/2" RBF) on the western right-of-way of Panola Road (70' R/W); THENCE along the western right-of-way of Panola Road (70' R/W) counterclockwise on the arc of a curve (Radius = 4105.43', Arc = 286.17') which subtends a chord of South 01°26'56" West a distance of 286.11' to a capped rebar set (CRBS); THENCE leaving the right-of-way of Panola Road North 89°35'58" West a distance of 1639.91' to a capped rebar set (CRBS) on the Land Lot line common to Land Lots 14 & 19; THENCE along the Land Lot line common to Land Lots 14 & 19 North 00°33'49" East a distance of 794.57' to a capped rebar set (CRBS); THENCE along the Land Lot line common to Land Lots 14 & 19 North 00°13'16" West a distance of 50.07' to a one half inch rebar found (1/2" RBF); THENCE along the Land Lot line common to Land Lots 14 & 19 North 00°13'16" West a distance of 77.02' to a one half inch rebar found (1/2" RBF) which is the POINT OF BEGINNING.

Said parcel bound as follows:

NORTH by property of Gail M. Wagner.

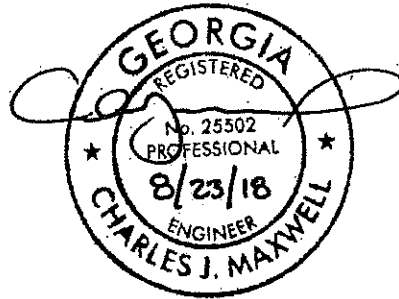
EAST by the western right-of-way of Panola Road.

SOUTH by Tract #2.

WEST by various lots of Burlington South Subdivision, Unit II

4001 and 3989 Panola Road
Trip Generation

Land Use (ITE Code)	Intensity	Daily	A.M. Peak			P.M. Peak		
			In	Out	Total	In	Out	Total
Single Family Detached (210)	115 Housing Units	117	25	68	93	77	44	121
	TOTAL	117	25	68	93	77	44	121



DeKalb County School District
Development Review Comments

Analysis Date: 1/9/2018

Submitted to: City of Stonecrest

Parcel #: 16-01-01-003, 16-019-01-3015

Name of Development: Kings Ridge
Location: 3989 & 4001 Panola Road

Description: Proposed development of 115 lot single family subdivision.

Impact of Development: This development is expected to generate 54 additional students: 10 at Flat Rock ES, 6 at Salem MS, 10 at MLK HS, 24 at other DCSD schools, and 4 at Private schools. The middle and high schools have capacity for additional students. Flat Rock ES does not have capacity for additional students and may require an addition portable classroom.

Current Condition of Schools	Flat Rock ES	Salem MS	Martin Luther King Jr. HS	Other DCSD Schools	Private Schools	Total
Capacity	925	1,225	2,037			
Portables	1	0	0			
Enrollment (Fcst. Oct. 2019)	1,040	1,071	1,494			
Seats Available	-115	154	543			
Utilization (%)	112.4%	87.4%	73.3%			
New students from development	10	6	10	24	4	54
New Enrollment	1,050	1,077	1,504			
New Seats Available	-125	148	533			
New Utilization	113.5%	87.9%	73.8%			

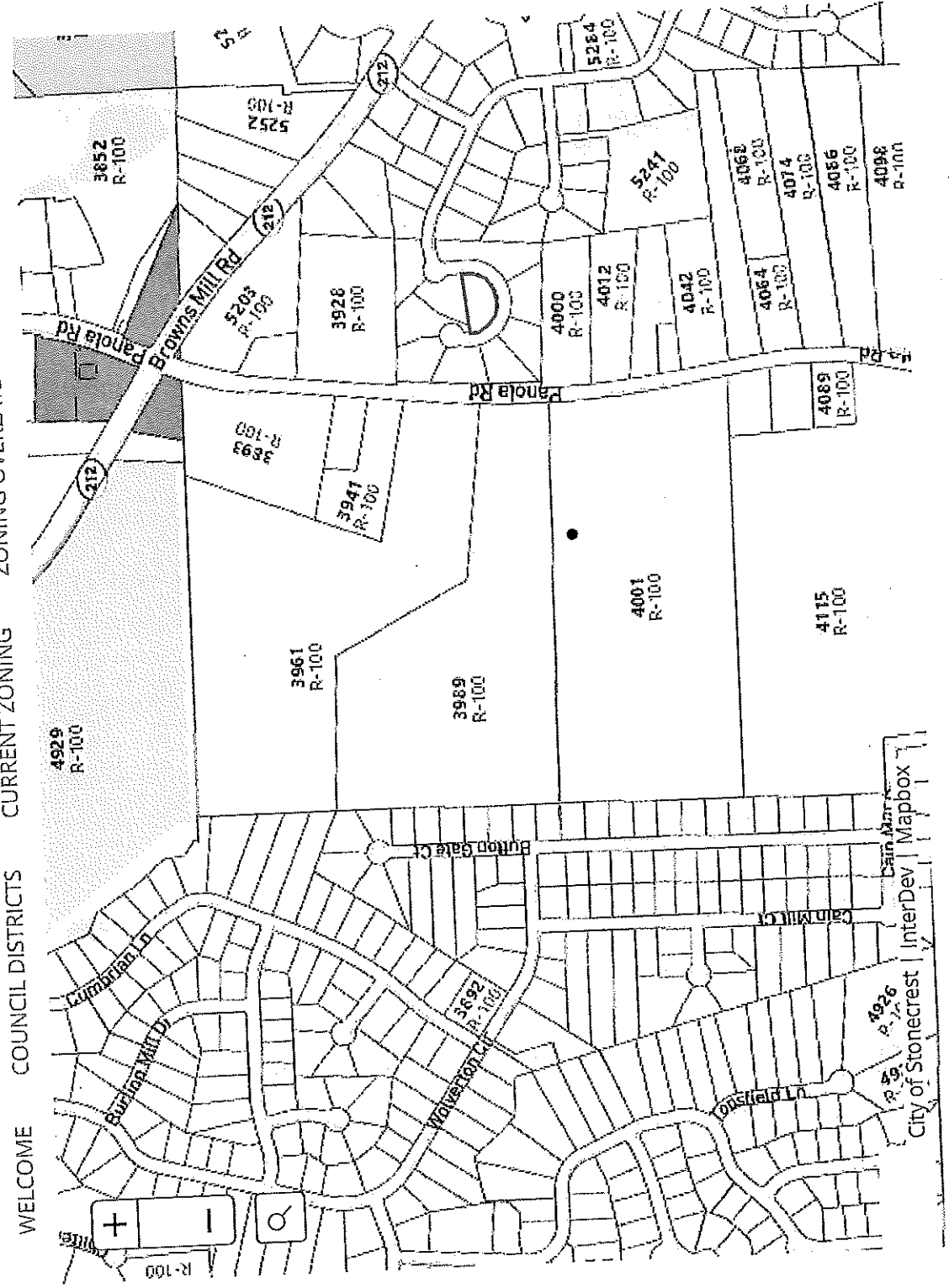
Yield Rates	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	0.0903	0.1003	0.0145	0.2051
Middle	0.0551	0.0454	0.0057	0.1062
High	0.0888	0.0618	0.0063	0.1568
Total	0.2342	0.2075	0.0264	0.4681
Student Calculations				
Proposed Units	115			
Unit Type	SF			
Cluster	Lithonia			
Units x Yield	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	10.39	11.53	1.67	23.59
Middle	6.34	5.23	0.65	12.22
High	10.21	7.10	0.72	18.03
Total	26.94	23.86	3.04	53.84
Anticipated Students	Attend Home School	Attend other DCSD School	Private School	Total
Flat Rock ES	10	12	2	24
Salem MS	6	5	1	12
Martin Luther King Jr. HS	10	7	1	18
Total	26	24	4	54

Explore Stonecrest



[DOWNLOAD ZONING MAP](#)

WELCOME COUNCIL DISTRICTS CURRENT ZONING ZONING OVERLAYS FUTURE LAND USE



Public Participation Report

Applicant: Blue River Development, LLC

1. The applicant sent notice out to the individuals listed in Exhibit A attached hereto via first class mail. A copy of the notice is attached hereto as Exhibit B.
2. Attached as Exhibit C is a copy of the sign in sheet for the meeting.
3. There was a vigorous discussion about the proposal. The Applicant present a copy of the site plan, as well as the results of the Traffic Study. The community expressed deep concerns about the amount of traffic that the project would generate, despite the results of the Traffic Study. There was also question raised regarding what trees would be saved around the perimeter of the property, as well as concerns about the quality of the homes to be built within the subdivision. We agreed to have a follow up meeting to continue the discussion, which is currently scheduled for March 25, 2019 at 6:30 pm at the Salem Panola Library. It is our anticipation that we will present the proposed conditions at that meeting, and seek to find middle ground with the community.

Dated: March 13, 2019

Sanford Prater	Mr.	Sanford	Prater	3900 Old Lantern Dr	Lithonia	GA	30038-3626
Joseph E Benton	Mr.	Joseph	Benton	4130 Snapfinger Rd	Lithonia	GA	30038-3651
John E Bernard	Mr.	John	Bernard	3805 Cumbrian Ln	Lithonia	GA	30038-3700
Kathy Morgan	Ms.	Kathy	Morgan	3811 Cumbrian Ln	Lithonia	GA	30038-3700
Myles Crowder	Mr.	Myles	Crowder	3819 Cumbrian Ln	Lithonia	GA	30038-3707
Bryana N Coleman	Ms.	Bryana	Coleman	3696 Burnley Ct	Lithonia	GA	30038-3709
Traci Brown	Ms.	Traci	Brown	3845 Cumbrian Ln	Lithonia	GA	30038-3709
Audrey Lake	Ms.	Audrey	Lake	3853 Cumbrian Ln	Lithonia	GA	30038-3709
Michael Gibson	Mr.	Michael	Gibson	3861 Cumbrian Ln	Lithonia	GA	30038-3711
Jacob L Stevens	Mr.	Jacob	Stevens	3704 Cumbrian Ln	Lithonia	GA	30038-3711
Tabias R Brooks	Mr.	Tabias	Brooks	3736 Cumbrian Ln	Lithonia	GA	30038-3711
Timothy K Green	Mr.	Timothy	Green	3744 Cumbrian Ln	Lithonia	GA	30038-3711
Dock A Newell	Mr.	Dock	Newell	3750 Cumbrian Ln	Lithonia	GA	30038-3711
Adriane D Hall	Ms.	Adriane	Hall	3758 Cumbrian Ln	Lithonia	GA	30038-3711
Michael Vonzell Smith	Mr.	Michael	Smith	3768 Cumbrian Ln	Lithonia	GA	30038-3711
Marlo Daley	Ms.	Marlo	Daley	3778 Cumbrian Ln	Lithonia	GA	30038-3711
Marcus Edwin Briggs	Mr.	Marcus	Briggs	3786 Cumbrian Ln	Lithonia	GA	30038-3711
Deborah J West	Ms.	Deborah	West	3794 Cumbrian Ln	Lithonia	GA	30038-3712
Sean Thompson	Mr.	Sean	Thompson	3709 Cumbrian Ln	Lithonia	GA	30038-3712
Deborah C Allen	Ms.	Deborah	Allen	3717 Cumbrian Ln	Lithonia	GA	30038-3712
Temesgen Gebrekidan	Mr.	Temesgen	Gebrekidan	3725 Cumbrian Ln	Lithonia	GA	30038-3712
Jacqueline Denise Smalley	Ms.	Jacqueline	Smalley	3735 Cumbrian Ln	Lithonia	GA	30038-3712
Travis J Barrett	Mr.	Travis	Barrett	3743 Cumbrian Ln	Lithonia	GA	30038-3712
Ernest Davis Jr	Mr.	Ernest	Davis	3749 Cumbrian Ln	Lithonia	GA	30038-3712
Yvonne Fraser	Ms.	Yvonne	Fraser	3761 Cumbrian Ln	Lithonia	GA	30038-3712
Ellis M Davis	Mr.	Ellis	Davis	3775 Cumbrian Ln	Lithonia	GA	30038-3712
Gloria Fider-Nicholson	Ms.	Gloria	Fider-Nicholson	3788 Wolverton Cir	Lithonia	GA	30038-3718
Randy Houpe	Mr.	Randy	Houpe	3796 Wolverton Cir	Lithonia	GA	30038-3718
Joanna Talbert	Ms.	Joanna	Talbert	3771 Wolverton Cir	Lithonia	GA	30038-3719
Cynthia Lane	Ms.	Cynthia	Lane	3781 Wolverton Cir	Lithonia	GA	30038-3719
Ayodeji Chase	Mr.	Ayodeji	Chase	3789 Wolverton Cir	Lithonia	GA	30038-3719
Latisha L Champion	Ms.	Latisha	Champion	3795 Wolverton Cir	Lithonia	GA	30038-3719
Royreus Quenshun Stephens	Mr.	Royreus	Stephens	4963 Wolverton Dr	Lithonia	GA	30038-3725
John Tate	Mr.	John	Tate	5016 Burling Gate Dr	Lithonia	GA	30038-3728
Ornita Alston	Ornita	Ornita	Alston	5038 Burling Gate Dr	Lithonia	GA	30038-3728

Edwanda D Cofer		Edwanda	D	Cofer	3840 Wolverton Cir	Lithonia	GA	30038-3739
Carroll A George		Carroll	A	George	3846 Wolverton Cir	Lithonia	GA	30038-3739
Darrell L Pharms	Mr.	Darrell	L	Pharms	3854 Wolverton Cir	Lithonia	GA	30038-3739
Terrence J Hunt	Mr.	Terrence	J	Hunt	3862 Wolverton Cir	Lithonia	GA	30038-3741
Shenteria King		Shenteria		King	3906 Vine Gate Dr	Lithonia	GA	30038-3743
Yolanda Worthy	Ms.	Yolanda	Y	Worthy	3876 Hodgdon Corners Dr	Lithonia	GA	30038-3743
Kali Y Crosby	Ms.	Kali		Crosby	3890 Hodgdon Corners Dr	Lithonia	GA	30038-3744
Jacqueline Jackson	Ms.	Jacqueline		Jackson	3873 Hodgdon Corners Dr	Lithonia	GA	30038-3744
Tony Connor	Mr.	Tony		Connor	3883 Hodgdon Corners Dr	Lithonia	GA	30038-3744
Veronica A Watkins	Ms.	Veronica	A	Watkins	3891 Hodgdon Corners Dr	Lithonia	GA	30038-3744
Frank J Buckley Sr	Mr.	Frank	J	Buckley	3897 Hodgdon Corners Dr	Lithonia	GA	30038-3745
Jesse Cunningham Jr	Mr.	Jesse		Cunningham	4970 Burling Mill Dr	Lithonia	GA	30038-3745
Stanley B Chatman	Mr.	Stanley	B	Chatman	4978 Burling Mill Dr	Lithonia	GA	30038-3745
Denise Harding	Ms.	Denise		Harding	4986 Burling Mill Dr	Lithonia	GA	30038-3745
Ronald McLaughlin Jr	Mr.	Ronald		McLaughlin	4994 Burling Mill Dr	Lithonia	GA	30038-3746
Ronald G Logan Sr	Mr.	Ronald	G	Logan	4977 Burling Mill Dr	Lithonia	GA	30038-3746
Zena Ford	Ms.	Zena		Ford	4983 Burling Mill Dr	Lithonia	GA	30038-3746
Jennifer Williams Moore	Ms.	Jennifer	Williams	Moore	4991 Burling Mill Dr	Lithonia	GA	30038-3747
Christiane Davis	Ms.	Christiane		Davis	5005 Burling Mill Dr	Lithonia	GA	30038-3747
Tyrone Presley	Mr.	Tyrone		Presley	5017 Burling Mill Dr	Lithonia	GA	30038-3748
Judith Johnson	Ms.	Judith		Johnson	5000 Burling Mill Dr	Lithonia	GA	30038-3748
Melvin Robinson	Mr.	Melvin		Robinson	5006 Burling Mill Dr	Lithonia	GA	30038-3748
Eric Linn Harris	Mr.	Eric	Linn	Harris	5012 Burling Mill Dr	Lithonia	GA	30038-3750
Henderson Charles	Mr.	Henderson		Charles	4993 Burling Gate Dr	Lithonia	GA	30038-3750
Sobena Jones	Ms.	Sobena		Jones	4999 Burling Gate Dr	Lithonia	GA	30038-3751
Kendra N Price	Ms.	Kendra	N	Price	5015 Burling Gate Dr	Lithonia	GA	30038-3751
Marcus Lateef McKay	Mr.	Marcus	Lateef	McKay	5021 Burling Gate Dr	Lithonia	GA	30038-3751
Charles Arnold Jr	Mr.	Charles		Arnold	5031 Burling Gate Dr	Lithonia	GA	30038-3752
Kianta L Cole	Ms.	Kianta	L	Cole	4984 Burling Gate Dr	Lithonia	GA	30038-3752
Kim R Marshall	Ms.	Kim	R	Marshall	4990 Burling Gate Dr	Lithonia	GA	30038-3752
Joyce R Lewis	Ms.	Joyce	R	Lewis	4998 Burling Gate Dr	Lithonia	GA	30038-3753
Kelvin Orc Colbert	Mr.	Kelvin	Orc	Colbert	3907 Hodgdon Corners Dr	Lithonia	GA	30038-3753
Segerick Clemon	Mr.	Segerick		Clemon	3915 Hodgdon Corners Dr	Lithonia	GA	30038-3753
Sam Roberson	Mr.	Sam		Roberson	3949 Hodgdon Corners Dr	Lithonia	GA	30038-3753
Keisha P Coleman	Ms.	Keisha	P	Coleman	3965 Hodgdon Corners Dr	Lithonia	GA	30038-3753

Arlene Samuel	Ms.	Arlene	Samuel	5125 Panola Valley Dr	Lithonia	GA	30038-3848
Verdas Gholston		Verdas	Gholston	5040 Panola Woods Ct	Lithonia	GA	30038-3849
Ben/Neel Suhail	Mr.	Ben/Neel	Suhail	5041 Panola Woods Ct	Lithonia	GA	30038-3849
Frank L Bertram	Ms.	Frank	Bertram	5049 Panola Woods Ct	Lithonia	GA	30038-3849
Monisha E Gibbs	Ms.	Monisha	Gibbs	5056 Panola Woods Ct	Lithonia	GA	30038-3849
Haroun Rollins	Mr.	Haroun	Rollins	5065 Panola Woods Ct	Lithonia	GA	30038-3849
Deandrea Luella Freeman	Ms.	Deandrea	Freeman	5072 Panola Woods Ct	Lithonia	GA	30038-3849
Natalie Crockett	Ms.	Natalie	Crockett	5073 Panola Woods Ct	Lithonia	GA	30038-3851
Michael E Jerry	Mr.	Michael	Jerry	4025 Panola Woods Dr	Lithonia	GA	30038-3851
Jeanette Fullilove	Ms.	Jeanette	Fullilove	4033 Panola Woods Dr	Lithonia	GA	30038-3851
Melissa A Arnold	Ms.	Melissa	Arnold	4041 Panola Woods Dr	Lithonia	GA	30038-3851
Bennett Dover	Mr.	Bennett	Dover	4049 Panola Woods Dr	Lithonia	GA	30038-3851
Barbara J Albritton	Ms.	Barbara	Albritton	4057 Panola Woods Dr	Lithonia	GA	30038-3851
Kim Battle	Ms.	Kim	Battle	4065 Panola Woods Dr	Lithonia	GA	30038-3852
Margaret Vennice Drew	Ms.	Margaret	Drew	4050 Panola Woods Dr	Lithonia	GA	30038-3852
Terrence A Seymour	Mr.	Terrence	Seymour	4064 Panola Woods Dr	Lithonia	GA	30038-3852
Brenda Evers	Ms.	Brenda	Evers	4074 Panola Woods Dr	Lithonia	GA	30038-3853
Almetta Katherine Woods	Ms.	Almetta	Woods	5096 Twin Lakes Dr	Lithonia	GA	30038-3855
Edward A Standley	Mr.	Edward	Standley	5104 Twin Lakes Dr	Lithonia	GA	30038-3856
Baker Blanding	Mr.	Baker	Blanding	5103 Twin Lakes Dr	Lithonia	GA	30038-3856
George Jenkins Jr	Mr.	George	Jenkins	5111 Twin Lakes Dr	Lithonia	GA	30038-3858
E Charles Benson	Mr.	E	Benson	4118 Sandy Lake Dr	Lithonia	GA	30038-3859
Glenn P Curtis	Mr.	Glenn	Curtis	4153 Sandy Lake Dr	Lithonia	GA	30038-3863
Tarkenton Y Scott	Ms.	Tarkenton	Scott	3904 Button Gate Ct	Lithonia	GA	30038-3863
Angelica Anderson	Ms.	Angelica	Anderson	3914 Button Gate Ct	Lithonia	GA	30038-3863
Paul C Olumbi	Mr.	Paul	Olumbi	3930 Button Gate Ct	Lithonia	GA	30038-3863
Michael Love	Mr.	Michael	Love	3938 Button Gate Ct	Lithonia	GA	30038-3863
Jairus Harmon	Mr.	Jairus	Harmon	3946 Button Gate Ct	Lithonia	GA	30038-3863
Auntwoine Stepp	Mr.	Auntwoine	Stepp	3962 Button Gate Ct	Lithonia	GA	30038-3863
Joseph Brown Jr	Mr.	Joseph	Brown	3970 Button Gate Ct	Lithonia	GA	30038-3864
Jerry B Green	Mr.	Jerry	Green	3903 Cain Mill Dr	Lithonia	GA	30038-3864
Judas Hicks	Mr.	Judas	Hicks	3911 Cain Mill Dr	Lithonia	GA	30038-3864
Eunice L Nicholson	Ms.	Eunice	Nicholson	3919 Cain Mill Dr	Lithonia	GA	30038-3864
Yolanda M Johnson	Ms.	Yolanda	Johnson	3927 Cain Mill Dr	Lithonia	GA	30038-3864
Artrice A Peterson	Ms.	Artrice	Peterson	3935 Cain Mill Dr	Lithonia	GA	30038-3864

Sylvia Bartholomew	Ms.	Sylvia	Bartholomew	4839 Hodgdon Corners Cv	Lithonia	GA	30038-3762
Cynthia McFarlane	Ms.	Cynthia	McFarlane	4845 Hodgdon Corners Cv	Lithonia	GA	30038-3762
Katrina Prater	Ms.	Katrina	Prater	4899 Topsfield Ln	Lithonia	GA	30038-3763
Tawanda L Coleman	Ms.	Tawanda	Coleman	4900 Topsfield Ln	Lithonia	GA	30038-3764
Norman Duke	Mr.	Norman	Duke	4904 Topsfield Ln	Lithonia	GA	30038-3764
Reginald Tyrone Cloud	Mr.	Reginald	Cloud	4908 Topsfield Ln	Lithonia	GA	30038-3764
Carolyn Dupres-Polite	Ms.	Carolyn	Dupres-Polite	4912 Topsfield Ln	Lithonia	GA	30038-3764
Terence Phillips II	Mr.	Terence	Phillips	4920 Topsfield Ln	Lithonia	GA	30038-3764
Christian Donelson	Mr.	Christian	Donelson	4926 Topsfield Ln	Lithonia	GA	30038-3765
Johnny Bailey	Mr.	Johnny	Bailey	4903 Topsfield Ln	Lithonia	GA	30038-3765
Jayne Stinson	Ms.	Jayne	Stinson	4907 Topsfield Ln	Lithonia	GA	30038-3765
Bob D Clark	Mr.	Bob	Clark	4911 Topsfield Ln	Lithonia	GA	30038-3765
Ursula Robertson	Ms.	Ursula	Robertson	4917 Topsfield Ln	Lithonia	GA	30038-3765
Jacqueline S Ward	Ms.	Jacqueline	Ward	4921 Topsfield Ln	Lithonia	GA	30038-3765
Albert Seaborn	Mr.	Albert	Seaborn	4925 Topsfield Ln	Lithonia	GA	30038-3766
Sandra Carroll	Ms.	Sandra	Carroll	4856 Topsfield Trl	Lithonia	GA	30038-3766
Cleveland Dollison	Mr.	Cleveland	Dollison	4864 Topsfield Trl	Lithonia	GA	30038-3766
Eva Marie Culbreath	Ms.	Eva	Culbreath	4870 Topsfield Trl	Lithonia	GA	30038-3766
Stephen Reed	Mr.	Stephen	Reed	4876 Topsfield Trl	Lithonia	GA	30038-3766
Agnes Joseph	Ms.	Agnes	Joseph	4888 Topsfield Trl	Lithonia	GA	30038-3766
Willis Delois A Hall	Mr.	Willis	Hall	4892 Topsfield Trl	Lithonia	GA	30038-3766
Lateef Y Baaset	Mr.	Lateef	Baaset	4865 Topsfield Trl	Lithonia	GA	30038-3767
Kristen N Gunter	Ms.	Kristen	Gunter	4869 Topsfield Trl	Lithonia	GA	30038-3767
Linda Thomas	Ms.	Linda	Thomas	4875 Topsfield Trl	Lithonia	GA	30038-3767
Quinton D Ramey	Mr.	Quinton	Ramey	4883 Topsfield Trl	Lithonia	GA	30038-3768
Pavia Evans		Pavia	Evans	3896 Vine Gate Dr	Lithonia	GA	30038-3769
S Papasan Canty		S	Canty	4799 Hodgdon Corners Cv	Lithonia	GA	30038-3800
Pamella D Thomas	Ms.	Pamella	Thomas	4058 Sandy Lake Dr	Lithonia	GA	30038-3800
Juanita P Baranco	Ms.	Juanita	Baranco	4070 Sandy Lake Dr	Lithonia	GA	30038-3826
Omar H Waajid	Mr.	Omar	Waajid	3931 Panola Rd	Lithonia	GA	30038-3827
Juvon Young	Mr.	Juvon	Young	4000 Panola Rd	Lithonia	GA	30038-3827
Patricia G Scott	Ms.	Patricia	Scott	4028 Panola Rd	Lithonia	GA	30038-3827
Alan Arthur Maxwell	Mr.	Alan	Maxwell	4042 Panola Rd	Lithonia	GA	30038-3827
Ronald J Woodard	Mr.	Ronald	Woodard	4064 Panola Rd	Lithonia	GA	30038-3827
James Sanders	Mr.	James	Sanders	4086 Panola Rd	Lithonia	GA	30038-3827

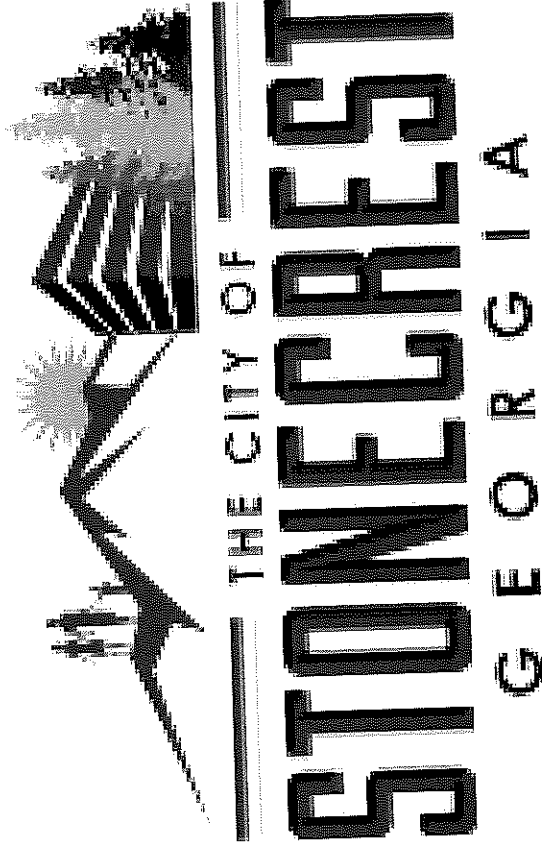
Mr.	Samuel Gilkes	Samuel	Gilkes	4951 Cain Mill Ct	Lithonia	GA	30038-3870
Ms.	Wanda Lechella Bell	Wanda	Bell	4956 Cain Mill Ct	Lithonia	GA	30038-3870
	Tishanna Brown	Tishanna	Brown	4957 Cain Mill Ct	Lithonia	GA	30038-3870
Ms.	Gale Gibson	Gale	Gibson	4965 Cain Mill Ct	Lithonia	GA	30038-3871
Ms.	Branesha Gray	Branesha	Gray	3808 Button Gate Ct	Lithonia	GA	30038-3871
Ms.	Erika Graham	Erika	Graham	3816 Button Gate Ct	Lithonia	GA	30038-3871
Ms.	Nakia Fowler	Nakia	Fowler	3824 Button Gate Ct	Lithonia	GA	30038-3871
Ms.	Darlene Hunter	Darlene	Hunter	3832 Button Gate Ct	Lithonia	GA	30038-3871
Ms.	Pamela Rivers	Pamela	Rivers	3840 Button Gate Ct	Lithonia	GA	30038-3871
Mr.	Melvin G Brown	Melvin	Brown	3848 Button Gate Ct	Lithonia	GA	30038-3871
Ms.	Joyce K Scales	Joyce	Scales	3856 Button Gate Ct	Lithonia	GA	30038-3871
Mr.	Augustus K Durand	Augustus	Durand	3864 Button Gate Ct	Lithonia	GA	30038-3871
Mr.	Usman Olorunlambale	Usman	Olorunlambale	3872 Button Gate Ct	Lithonia	GA	30038-3871
Ms.	Shannon Whisby	Shannon	Whisby	3888 Button Gate Ct	Lithonia	GA	30038-3871
Mr.	Aloysius Obodoako	Aloysius	Obodoako	3896 Button Gate Ct	Lithonia	GA	30038-3872
Mr.	Leander A Charles	Leander	Charles	3803 Button Gate Ct	Lithonia	GA	30038-3872
Mr.	Courtney D Shelton	Courtney	Shelton	3807 Button Gate Ct	Lithonia	GA	30038-3872
Mr.	Shane D Patterson	Shane	Patterson	3813 Button Gate Ct	Lithonia	GA	30038-3872
Mr.	Lennox E Douglas	Lennox	Douglas	3821 Button Gate Ct	Lithonia	GA	30038-3872
Ms.	Jaci Edwards	Jaci	Edwards	3827 Button Gate Ct	Lithonia	GA	30038-3872
Mr.	Sean Decharles Pittman	Sean	Pittman	3835 Button Gate Ct	Lithonia	GA	30038-3872
Mr.	Peter C Dural	Peter	Dural	3841 Button Gate Ct	Lithonia	GA	30038-3872
Ms.	Maldonia Griffin	Maldonia	Griffin	3851 Button Gate Ct	Lithonia	GA	30038-3872
Mr.	Ebony Patterson	Ebony	Patterson	3865 Button Gate Ct	Lithonia	GA	30038-3872
Ms.	Tony T Martin	Tony	Martin	3881 Button Gate Ct	Lithonia	GA	30038-3872
Mr.	Jewel D McAshan	Jewel	McAshan	3887 Button Gate Ct	Lithonia	GA	30038-3872
Mr.	Charles C Newton Jr	Charles	Newton	3895 Button Gate Ct	Lithonia	GA	30038-3872
Mr.	William C Chandler	William	Chandler	3928 Panola Rd	Lithonia	GA	30038-3874
Mr.	Donald Spencer	Donald	Spencer	5209 Beechwood Forest Ct	Lithonia	GA	30038-3901
Ms.	Sharika Davenport	Sharika	Davenport	5215 Beechwood Forest Ct	Lithonia	GA	30038-3901
Mr.	Charles P Touchstone	Charles	Touchstone	5224 Beechwood Forest Ct	Lithonia	GA	30038-3901
Mr.	Gregory Walker	Gregory	Walker	5241 Beechwood Forest Ct	Lithonia	GA	30038-3901
Mr.	Jermaine Wilson	Jermaine	Wilson	5250 Beechwood Forest Ct	Lithonia	GA	30038-3902
Ms.	Valencia Miller	Valencia	Miller	5152 Beechwood Forest Dr	Lithonia	GA	30038-3902
Ms.	Patricia Hunter	Patricia	Hunter	5178 Beechwood Forest Dr	Lithonia	GA	30038-3902

Tangi Y Dixon	Ms.	Tangi Y	Dixon	5349 Beechwood Forest Dr	Lithonia GA	30038-3909
Kim Hodge	Ms.	Kim	Hodge	5357 Beechwood Forest Dr	Lithonia GA	30038-3909
Timberly Davis	Ms.	Timberly	Davis	5363 Beechwood Forest Dr	Lithonia GA	30038-3909
Raymond M Earls	Mr.	Raymond	Earls	5373 Beechwood Forest Dr	Lithonia GA	30038-3909
Beverly Stanley	Ms.	Beverly	Stanley	5381 Beechwood Forest Dr	Lithonia GA	30038-3909
Tareyton N Clark	Mr.	Tareyton	Clark	5387 Beechwood Forest Dr	Lithonia GA	30038-3910
C Gene Ledbetter		C	Ledbetter	5204 Browns Mill Rd	Lithonia GA	30038-3910
Latonya B Pitts	Ms.	Latonya	Pitts	5224 Browns Mill Rd	Lithonia GA	30038-3910
Fred Douglas Colbert	Mr.	Fred	Colbert	5236 Browns Mill Rd	Lithonia GA	30038-3911
Calvin J Brown	Mr.	Calvin	Brown	5271 Browns Mill Rd	Lithonia GA	30038-3912
Carlos A Wicker	Mr.	Carlos	Wicker	5309 Browns Mill Rd	Lithonia GA	30038-3921
Morris J Chesser	Mr.	Morris	Chesser	3643 Eagle Woods Cir	Lithonia GA	30038-3921
Corey Bernard Adams	Mr.	Corey	Adams	3653 Eagle Woods Cir	Lithonia GA	30038-3925
Ezell Briney Jr	Mr.	Ezell	Briney	3829 Eagle Woods Cir	Lithonia GA	30038-3926
Elaine Clements	Ms.	Elaine	Clements	3820 Eagle Woods Cir	Lithonia GA	30038-3926
Loretta Victor	Ms.	Loretta	Victor	3834 Eagle Woods Cir	Lithonia GA	30038-3926
Pauline G Twyman	Ms.	Pauline	Twyman	3842 Eagle Woods Cir	Lithonia GA	30038-3941
Augusta Jones	Ms.	Augusta	Jones	5415 Terrytown Ln	Lithonia GA	30038-3955
Michael Barney	Mr.	Michael	Barney	5207 Sandy Shores Ct	Lithonia GA	30038-3957
Hutch Industries Inc Hutch Lamar Deon				5206 Sandy Shores Ct	Lithonia GA	30038-3958
Linda Adams	Ms.	Linda	Adams	5288 Sandy Lk E	Lithonia GA	30038-3959
Edmond Michael Franklin	Mr.	Edmond	Franklin	5289 Sandy Lk E	Lithonia GA	30038-3962
Davy R Brown	Mr.	Davy	Brown	4936 W Saddle Ridge Dr	Lithonia GA	30038-3962
Timothy Lawson	Mr.	Timothy	Lawson	4944 W Saddle Ridge Dr	Lithonia GA	30038-3962
Sherman T Jennings	Mr.	Sherman	Jennings	4954 W Saddle Ridge Dr	Lithonia GA	30038-3962
James A Parker Sr	Mr.	James	Parker	4962 W Saddle Ridge Dr	Lithonia GA	30038-3962
Dwight E Fulton	Mr.	Dwight	Fulton	4970 W Saddle Ridge Dr	Lithonia GA	30038-3962
Antoine Bolden	Mr.	Antoine	Bolden	4978 W Saddle Ridge Dr	Lithonia GA	30038-3962
Lawrence Vincent Stroud	Mr.	Lawrence	Stroud	4986 W Saddle Ridge Dr	Lithonia GA	30038-3962
Marquitha S Mayfield		Marquitha	Mayfield	5615 Hunters Vly	Lithonia GA	30038-4048
Lesley E Gadsden	Ms.	Lesley	Gadsden	3922 Evans Mill Rd	Lithonia GA	30038-4101
Aila Inc				5154 Browns Mill Rd	Lithonia GA	30038-7503
Judy M Weed	Ms.	Judy	Weed	7915 Wynfield Cir	Lithonia GA	30040-6609
Kishun Ira 1510482 Roy		Kishun	Roy	1977 Old Peachtree Rd	Lithonia GA	30043-2822
Arlynette Hamm		Arlynette	Hamm	3015 Cove Crossing Dr	Lawrencevi GA	30045-8649

Louise B Walton	Ms.	Louise	B	Walton	1286 Elmhurst Cir Se	Atlanta	GA	30316-2726
Jerome Haynes	Mr.	Jerome		Haynes	1752 Fayetteville Ct Se	Atlanta	GA	30316-2909
Jacqueline Smith	Ms.	Jacqueline		Smith	359 S Howard St Se	Atlanta	GA	30317-2413
Robert L Estile	Mr.	Robert	L	Estile	1741 Woodcliff Pl Ne	Atlanta	GA	30329-2439
Khosro Dosestareh	Mr.	Khosro		Dosestareh	1268 Arborvista Dr Ne	Atlanta	GA	30329-3824
Ara 1 Llc			M	Muniz	4780 Ashford Dunwoody Rd	Dunwoody	GA	30338-5564
Lindsay M Muniz		Lindsay		Hudson	431 Asbury Cmns Apt C	Atlanta	GA	30338-7111
Lawrence T Hudson	Mr.	Lawrence	T	Hudson	1850 Cotillion Dr	Atlanta	GA	30338-7841
P Fin Il Llc			C	Turmon	6300 Powers Ferry Rd Ste 600	Atlanta	GA	30339-2961
Annie C Turmon	Ms.	Annie		Hasan	5747 Gene Sarazen Dr	Braselton	GA	30517-4057
Jameel Hasan	Mr.	Jameel		Hasan	3480 Tarnerton Trce	Buford	GA	30519-4249
Evans Mill Development Inc			V	Arienzo	Po Box 1283	Madison	GA	30650-0903
Gerald V Arienzo	Mr.	Gerald		Arienzo	299 Fairplay St	Rutledge	GA	30663-2312
Patricia Evelyn Nwankwo	Ms.	Patricia	Evelyn	Nwankwo	1311 11th St	Augusta	GA	30901-3314
Theron Adams	Mr.	Theron		Adams	2600 Fair Haven Rd	Eastman	GA	31023-8444
Janet Burton	Ms.	Janet		Burton	84 Runner Rd	Monticello	GA	31064-8806
Bruce A Miller	Mr.	Bruce	A	Miller	2406 Radium Springs Rd	Albany	GA	31705-4572
James E Vachuska	Mr.	James	E	Vachuska	5315 Indian Valley Rd	Franklin	TN	37064-9478
Gail M Wagner	Ms.	Gail	M	Wagner	113 Brookline Ct	Franklin	TN	37069-7021
Tony R Adams	Mr.	Tony	R	Adams	219 Church Rd	Brandon	MS	39047-9311
Consumer Realited Businesses			R	Morgan	1419 E 41st St	Cleveland	OH	44103-1107
Barbara R Morgan	Ms.	Barbara		Benjamin	1724 Flagstone Dr	Normal	IL	61761-9581
Nathan Benjamin	Mr.	Nathan		Benjamin	Po Box 408	Oakdale	LA	71463-0408
2015 3 IH2 Borrower Lp					1717 Main St	Dallas	TX	75201-4612
Avelo Mortgage Llc					Po Box 4387	Houston	TX	77210-4387
Arvm 5 Llc					5001 Plaza On The Lk Ste 200	Austin	TX	78746-1053
Progress Residential 2014					Po Box 4090	Scottsdale	AZ	85261-4090
Op Spe TPA1 Llc					2212 E Williams Field Rd Ste 215	Gilbert	AZ	85295-0774
Daniel Arellano	Mr.	Daniel		Arellano	Po Box 27205	Prescott Vll	AZ	86312-7205
Darrell Charmness	Mr.	Darrell		Charmness	2021 S Sanders Ct	La Habra	CA	90631-2097
Heartview Trust Harrell Jonathan Edward					16800 Devonshire St	Granada Hi	CA	91344-7403
Tah 2018 1 Borrower Llc					1508 Brookhollow Dr	Santa Ana	CA	92705-5433
Yue Sun	Ms.	Yue	Sun	Sun	528 Cringle Dr	Redwood CCA		94065-1136



PLANNING COMMISSION POWER POINT PRESENTATION



RZ-19-001

4001/3989 Panola Road, Stonecrest

GA 30038

***Previously heard at February 5th
Planning Commission**



Petition Information

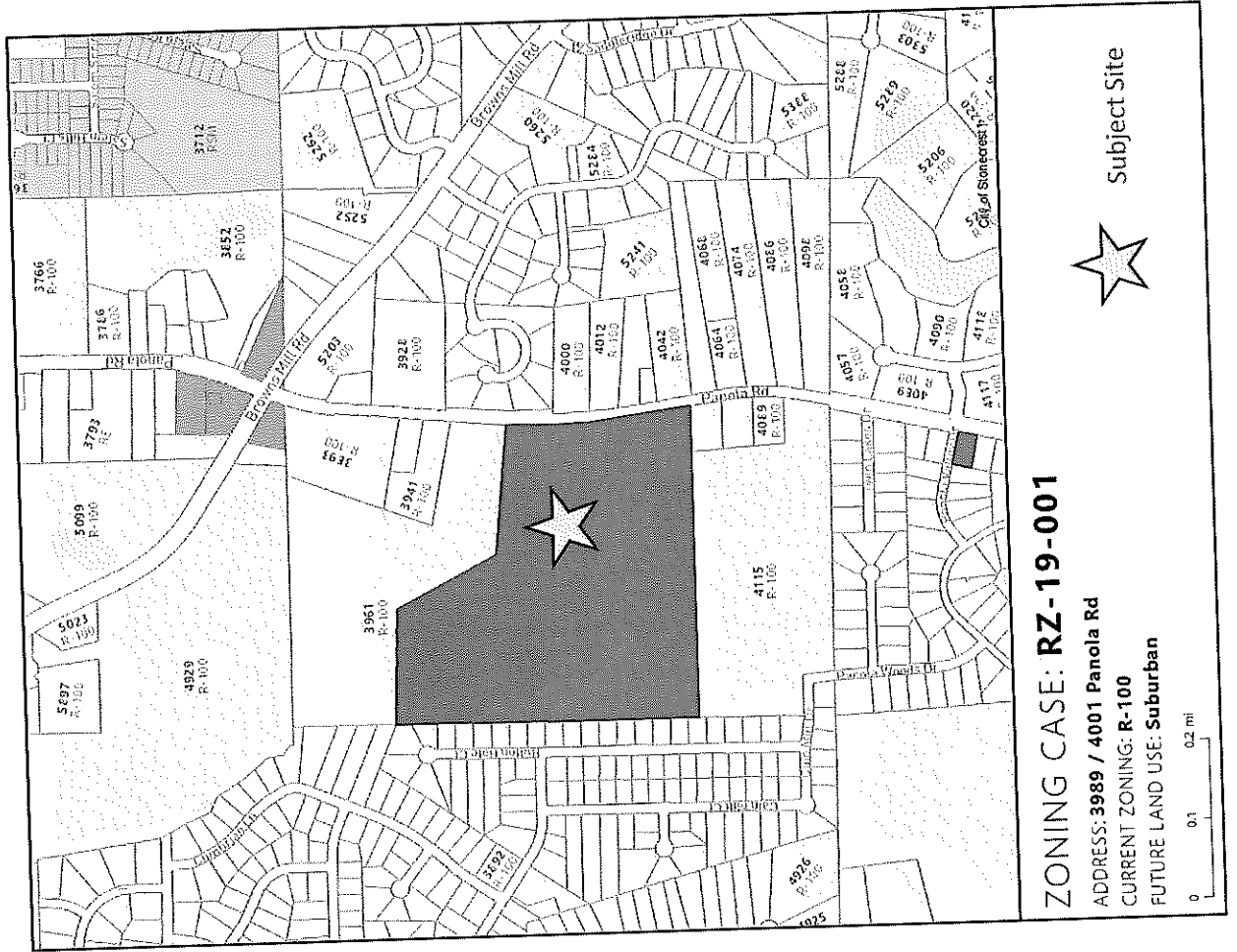
- APPLICANT: Blue River Development, LLC c/o Battle Law
 - LOCATION: 4001 – 3989 Panola Road
 - ACREAGE: 53.0
 - REQUEST: The applicant is requesting to rezone subject property from R-100 to R-75 for the development of 115 detached single-family homes.
- *Application was deferred at the February 25th City Council Meeting to allow the applicant to have more community meetings and submit a traffic impact study to staff.

General Information

- Current zoning: R-100 (Residential Med Lot) District
- Future Land Use Character Area: Suburban
- Policies for this area emphasize:
 - Protect stable neighborhoods from incompatible development that could alter established single-family developments.
 - Promote Strong connectivity and continuity between existing and new developments.
- Surrounding uses: Residential.
- Surrounding zoning: R-100 (Residential Medium Lot)



Zoning Map



Future Land Use Map

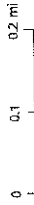


ZONING CASE: RZ-19-001

ADDRESS: 3989 / 4001 Panola Rd

CURRENT ZONING: R-100

FUTURE LAND USE: Suburban



Subject Site

Aerial Map

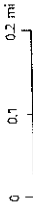


ZONING CASE: RZ-19-001

ADDRESS: 3989 / 4001 Panola Rd

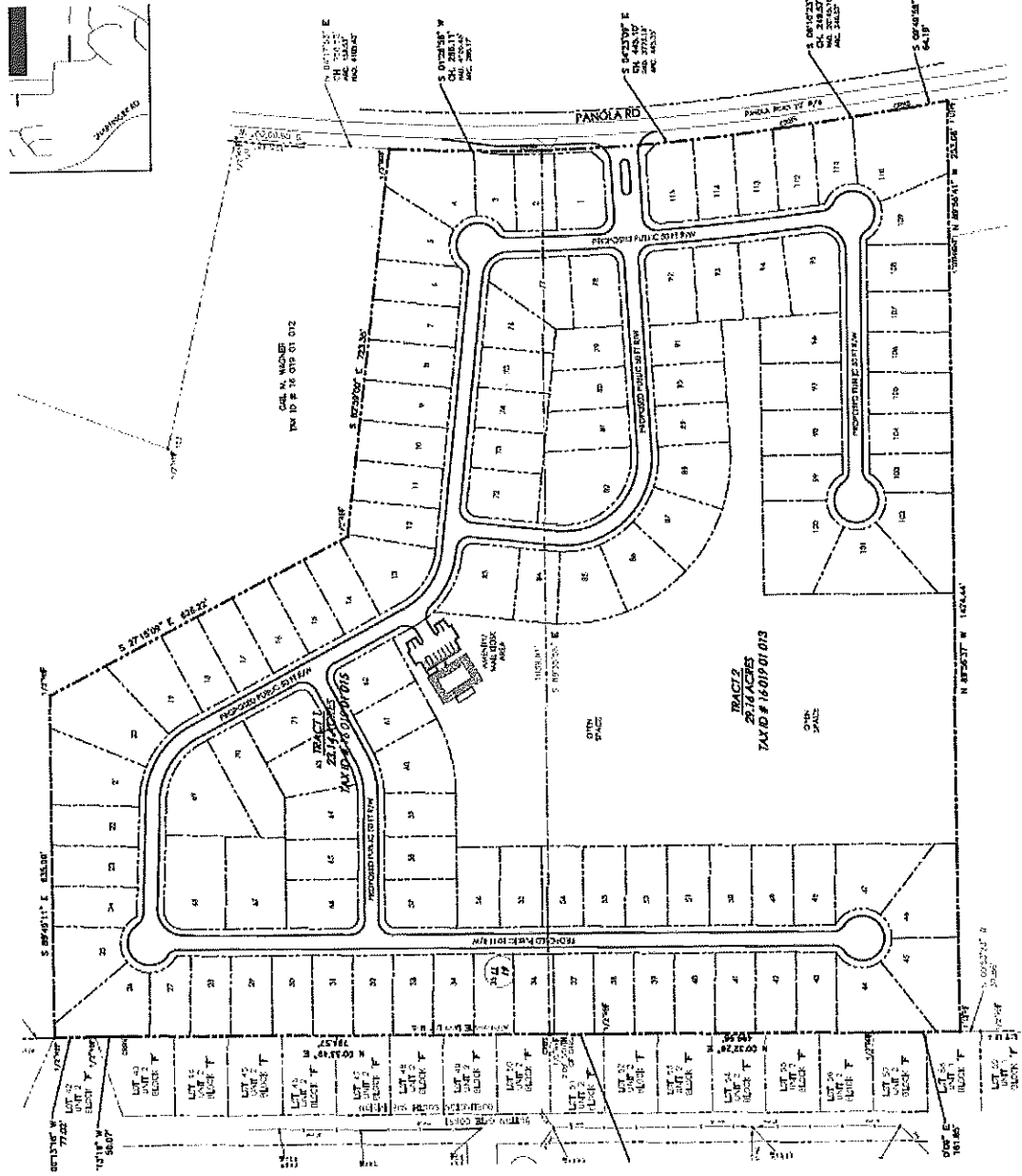
CURRENT ZONING: R-100

FUTURE LAND USE: Suburban

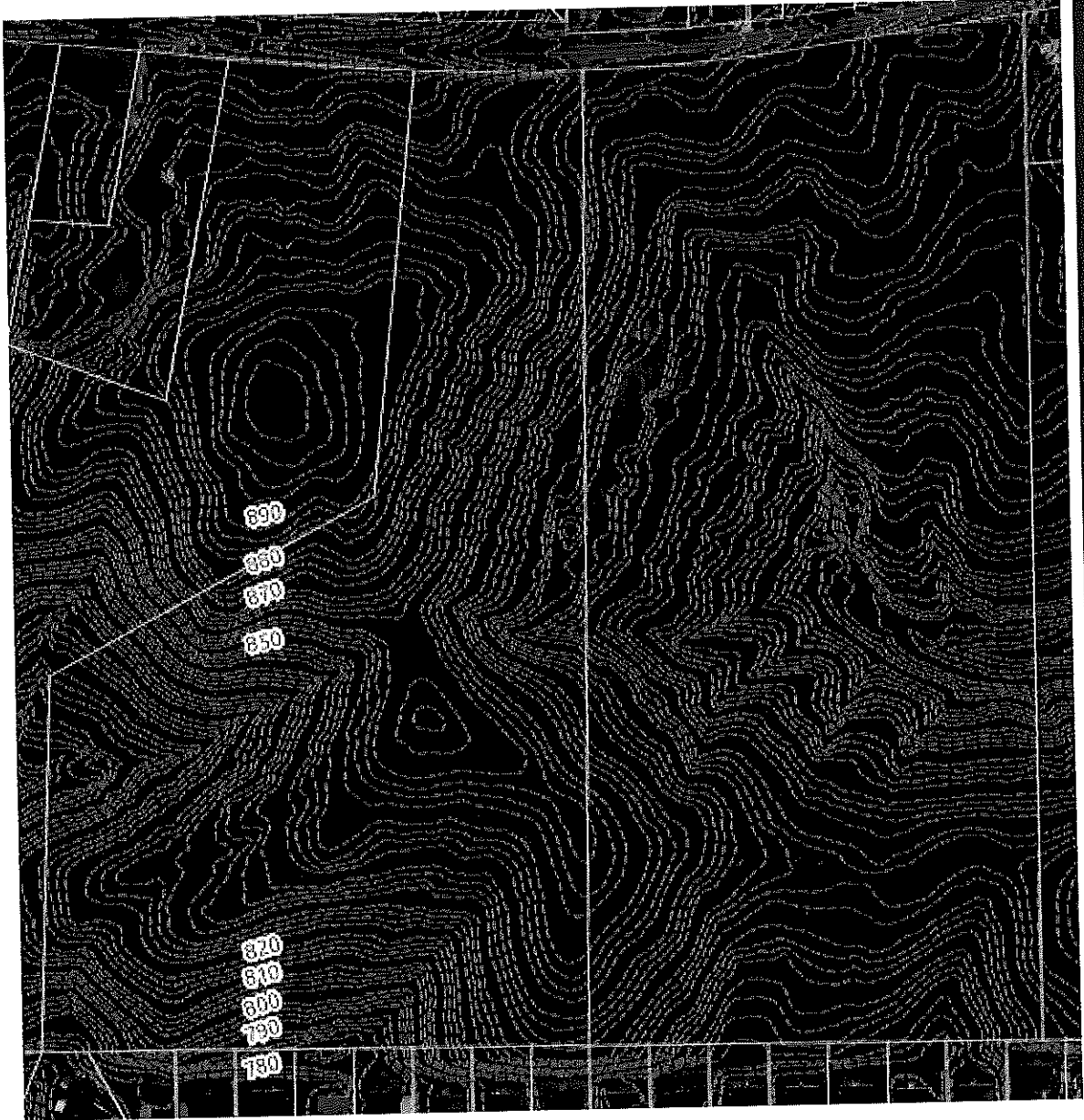


Subject Site

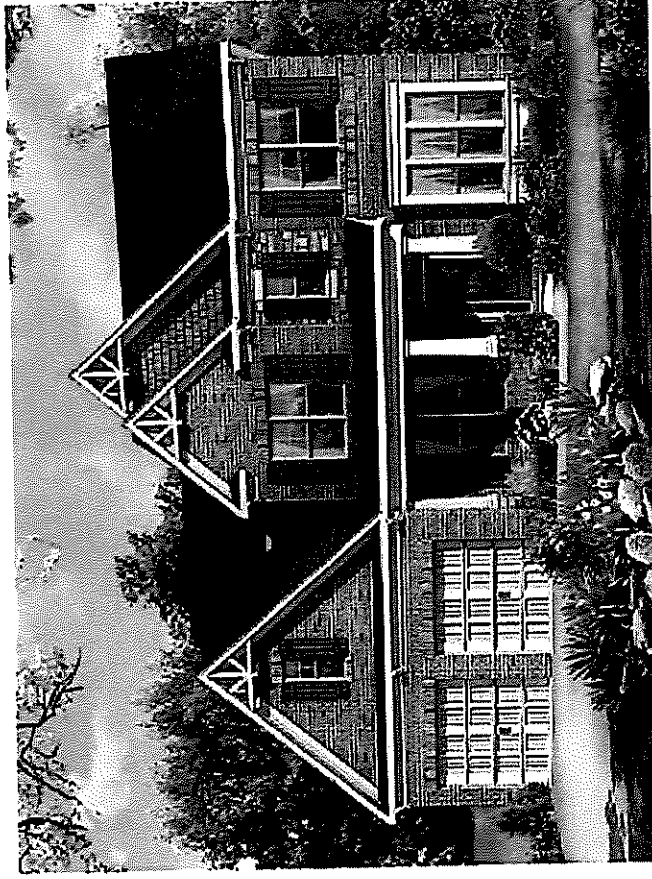
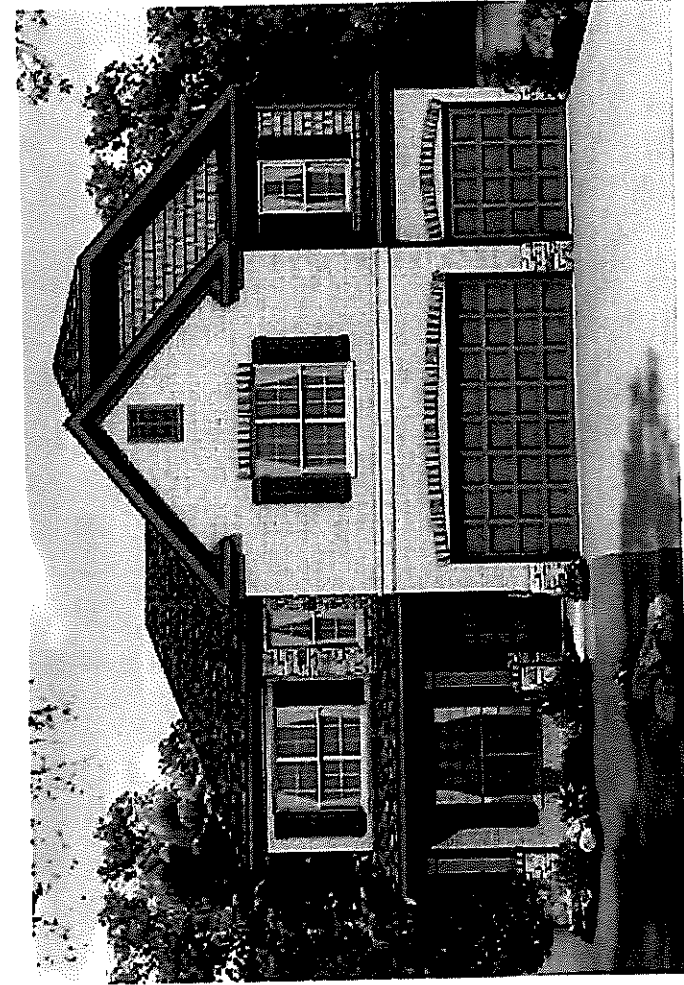
Site Plan of the Proposed Development.



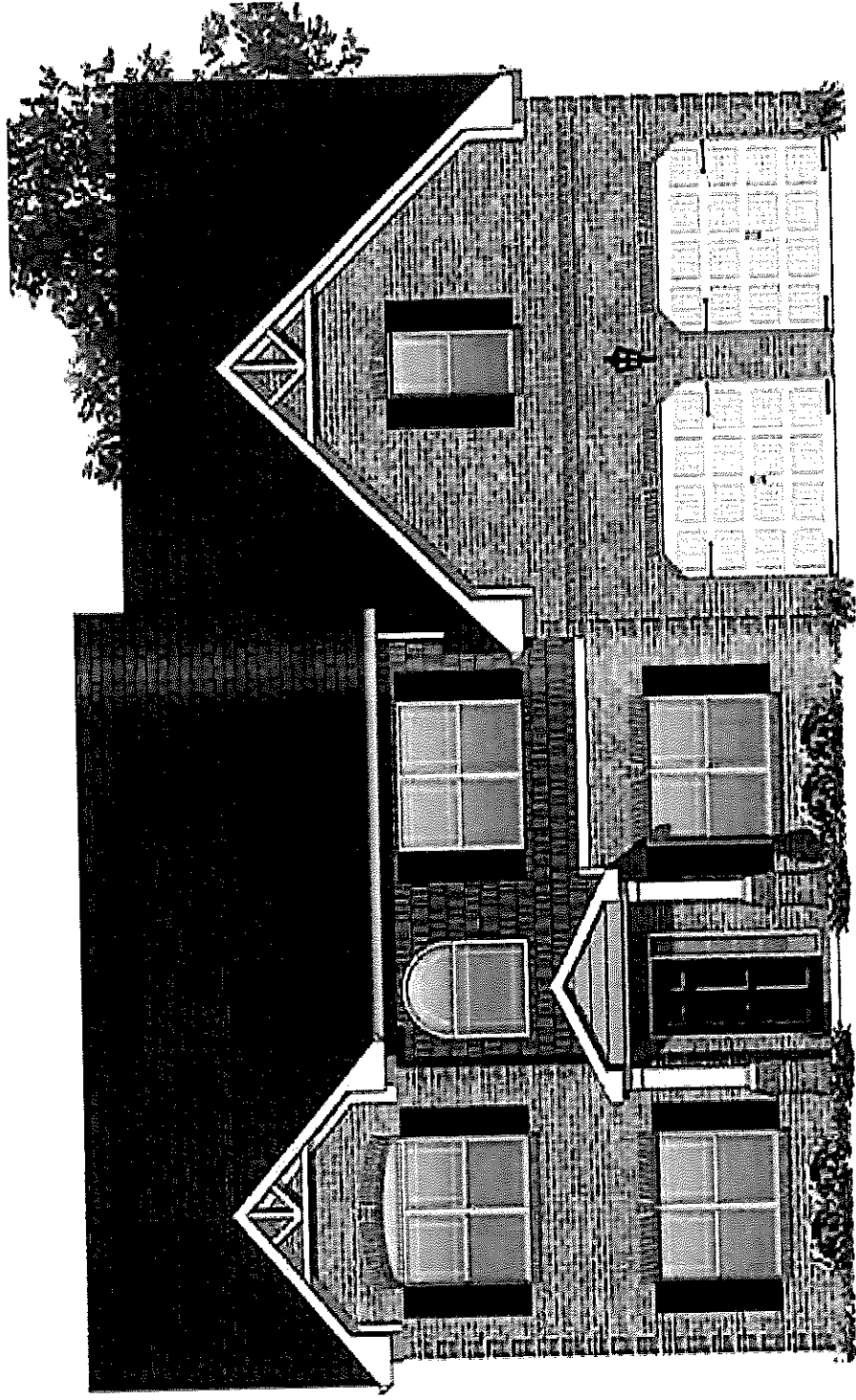
Aerial Map with Contours



Proposed Front Elevations



Proposed Front Elevations



Standards of Review

- Whether the zoning proposal is in conformity with the policy and intent of 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 property or properties.
- Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
- Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.
- 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.
- Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.
- Whether the zoning proposal will result in use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

Staff Analysis

Staff comments:

- The proposed zoning is recommended use for the area and the overall development would be in line with the comprehensive plan goals.
- Flat Rock ES does not have the capacity for additional students.
- Traffic Impact Study shows no increase degradation of the existing streets.



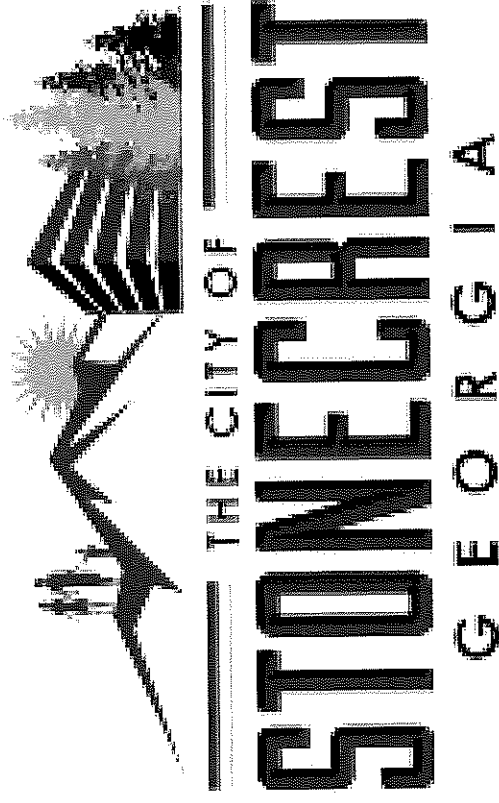
Recommend Conditions

Based on the findings and conclusions, it appears the applicant does meet all the criteria for approval. Therefore Staff recommends approval RZ-19-001 and be subject to the following conditions:

- Submit a site plan to the City of Stonecrest Community Development Department that conforms to the requirements of the R-75 zoning district and conditions found herein. The site plan shall be submitted to the Community Development Department for approval prior to application for a Land Disturbance Permit. Said site plan shall contain a maximum of 115 detached single-family units.
- Dwellings shall have a minimum heated floor area of 1,800 square feet.
- Building elevations shall be constructed of primarily brick or stone on the front façade. Sides and rear shall contain at least 50 percent brick or stone with the balance being the same, wood shake or fiber-cement siding; final approval will be subject to the review and approval of the Community Development Director.
- The development shall be limited to a maximum of two (2) entrances on Panola Road. Said entrances shall have adequate spacing and sight distance, and are subject to the approval of the Stonecrest City Engineer.
- Owner/Developer shall install ADA compliant sidewalks along both sides of all proposed streets.
- Owner/Developer shall construct a deceleration lane at the proposed entrance to the development on Panola Road (Sec. 14-200(9)a), subject to the approval of the Stonecrest City Engineer.

Recommend Conditions

- Owner/Developer shall install curb & gutter and a five foot (5') wide sidewalk along the entire frontage of Panola Road. Said sidewalk shall be located so that it will not conflict with the future Panola Road Operations Improvement Project.
- Owner/Developer shall dedicate additional right-of-way along the entire frontage of Panola Road to provide a minimum of fifty feet (50') from the road centerline, twelve feet (12') from the future back of curb, or two feet (2') from the future back of sidewalk, whichever is greater.
- All proposed roads shall be designed and constructed in compliance with the City of Stonecrest Development Regulations, including a minimum centerline radius of ninety feet (90'), subject to the approval of the City Engineer.
- Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition. Detention facilities must be on a separate lot and shall be maintained by the Homeowners Association.
- Owner/Developer shall comply with the City of Stonecrest Tree Protection Ordinance concerning tree protection and replacement. A minimum on-site tree density of fifteen (15) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree recompense units as required in the ordinance.
- Water and sewer approval is required by the DeKalb County Department of Watershed Management.



April 2nd 2019

**Planning Commission
Public Hearing**




CITY COUNCIL AGENDA ITEM

SUBJECT: RZ 19-002 Residential Rezoning 3606 Dogwood Pass / 8078 White Oak Loop

ORDINANCE **POLICY** **STATUS REPORT**
 DISCUSSION ONLY **RESOLUTION** **OTHER**

Date Submitted: 04/15/19 **Work Section:** **Council Meeting: 04/22/2019**

SUBMITTED BY: Nicole Dozier, Community Development Director 

PURPOSE: The applicant is requesting to rezone three parcels out of six parcels that is part of the Park of Stonecrest Subdivision from Small Residential Lot (RSM) to Residential Small Lot (R-60) in order to have consistent zoning for the development of approved 117 units subdivision.

HISTORY: This item was originally heard at the April 2nd Planning meeting. The Planning Commission recommend approval of RZ-19-002. The parcels are part of a subdivision project that was previously approved by Dekalb County. Staff noted the zoning was inconsistent and three of the six parcels needed to be rezoned.

OPTIONS: Approve; Deny; or make Alternative conditions

RECOMMENDATED ACTION:

Staff recommended approval of petition RZ 19-002 at the April 2nd, 2019 meeting. Planning Commission recommended approval of petition RZ 19 - 002 at the April 2nd, 2019 meeting.

ATTACHMENTS:

- #1 4/2/19 Staff Report
- #2 4/2/19 PowerPoint Presentation



PLANNING COMMISSION STAFF REPORT(S)



PLANNING COMMISSION STAFF REPORT

MEETING DATE: April 2nd, 2019

GENERAL INFORMATION

Petition Number: RZ-19-002

Applicant: Stonecrest Capital Partners, LLC c/o Battle Law. P.C.

Owner: Stonecrest Capital Partners

Project Location: 3606 Dogwood Pass / 8078 White Oak Loop

District: District 1

Acreage: 5.33 acres

Existing Zoning: RSM (Small Lot Residential Mix) District

Proposed Zoning: R-60 (Residential Small Lot)

Proposed Development/Request: The applicant is requesting to rezone three parcels out of six parcels that is part of The Parks of Stonecrest Subdivision from RSM to R-60 for the development of approved 117 units subdivision.

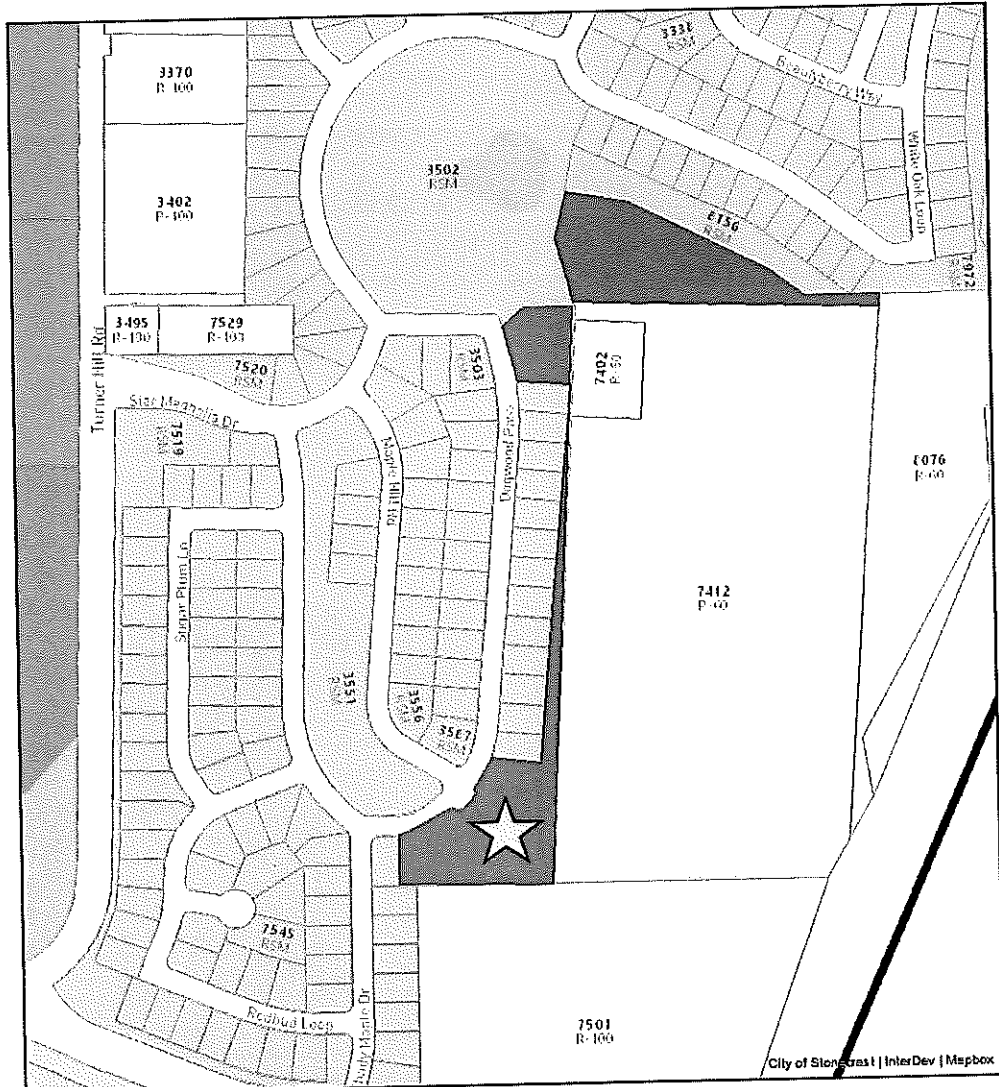
Staff Recommendations: Approved

Planning Commission: Approved



PLANNING COMMISSION STAFF REPORT

Zoning Map

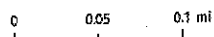


ZONING CASE: RZ-19-002

ADDRESS: **3606 Dogwood Pass / 8078 White Oak Loop**
CURRENT ZONING: **RSM (Residential Small Lot) District**
FUTURE LAND USE: **Suburban**



Subject Site

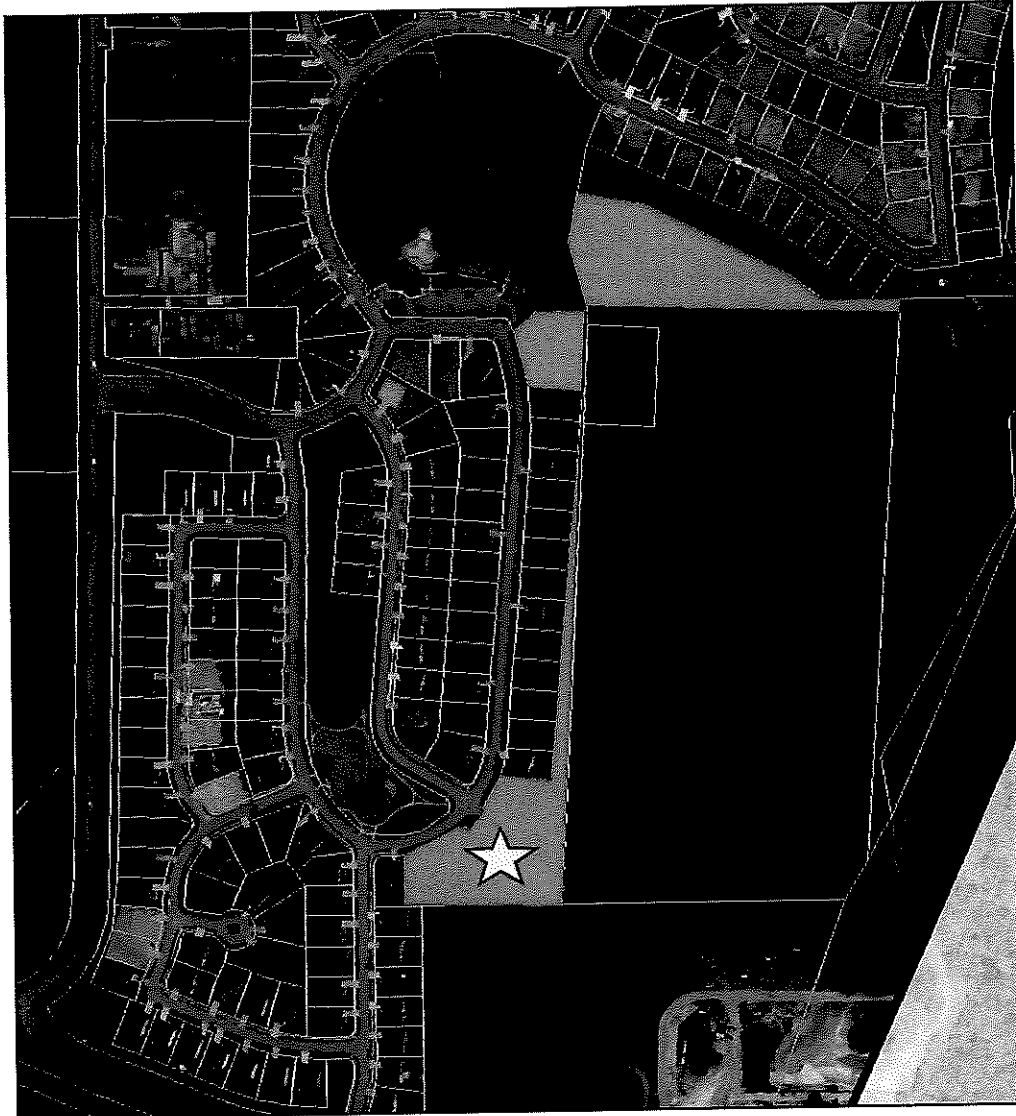


City of Stonecrest | InterDev | Mapbox



PLANNING COMMISSION STAFF REPORT

Aerial Map



ZONING CASE: **RZ-19-002**

ADDRESS: **3606 Dogwood Pass / 8078 White Oak Loop**

CURRENT ZONING: **RSM (Residential Small Lot) District**

FUTURE LAND USE: **Suburban**



Subject Site

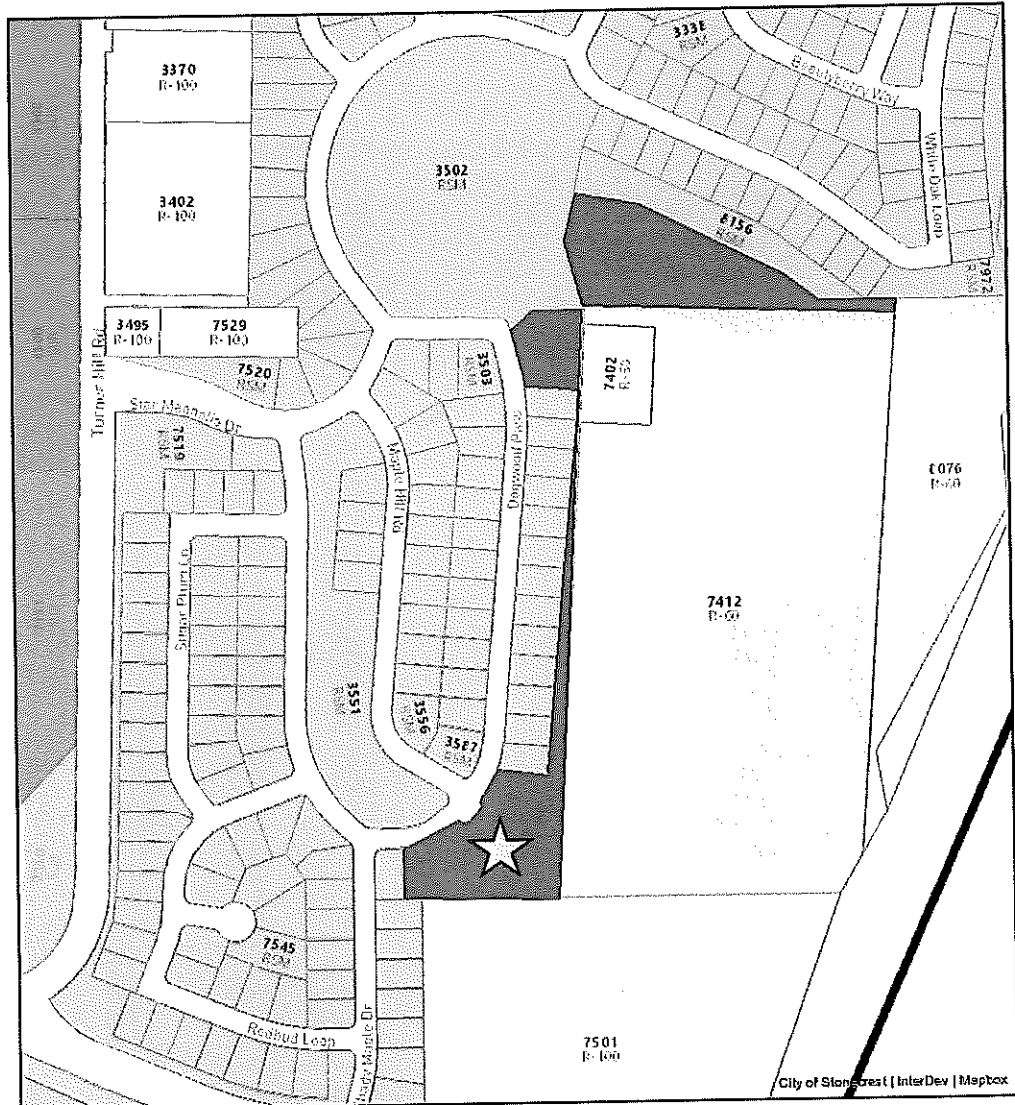
0 0.05 0.1 mi

A horizontal scale bar with three segments, labeled "0", "0.05", and "0.1 mi".



PLANNING COMMISSION STAFF REPORT

Future Land Use Map



ZONING CASE: **RZ-19-002**

ADDRESS: **3606 Dogwood Pass / 8078 White Oak Loop**
CURRENT ZONING: **RSM (Residential Small Lot) District**
FUTURE LAND USE: **Suburban**



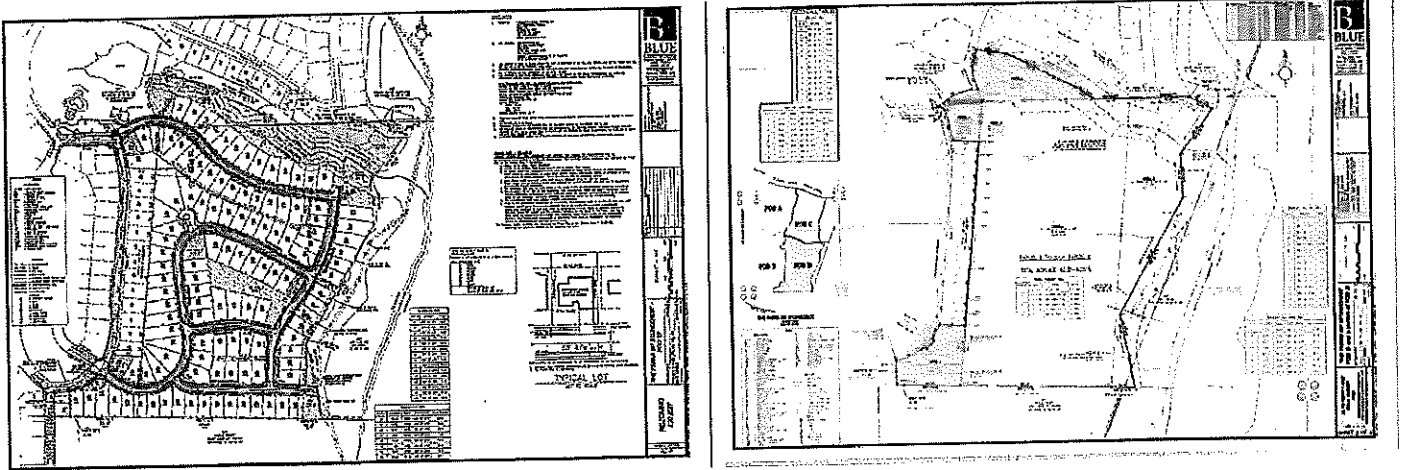
Subject Site

0 0.05 0.1 mi



PLANNING COMMISSION STAFF REPORT

*Proposed Site Plan



*Parcels three, four and five are highlighted.

PROJECT OVERVIEW

The applicant is requesting a change in zoning for 5.33 acres from RSM (Small Lot Residential Mix) to R-60 (Residential Small Lot) District to allow for the completion of the 117-unit subdivision phase. The Future Land Use character for this area is Subdivision identified in the Stonecrest Comprehensive Plan.

The subject parcels are located in The Parks of Stonecrest Subdivision. The properties abut subject properties to the North and West are The Parks of Stonecrest Subdivision.

The subject properties are part of six parcels 40.35 acres residential development that will be constructed during Phase IV (Pod D) of The Parks of Stonecrest subdivision. Parcels one, two and six are zoning R-60, while parcels three, four and five are zoned RSM. The applicant cannot develop a subdivision with two different zoning classifications. Therefore the applicant is seeking to zone the parcels R-60 to finish the development of the subdivision.

The sites are currently undeveloped with a mixture of mature hardwood and mature pine trees. Parcel six slopes down generally from northeastern property line to the southwestern property line. The other two parcels can be described as being mainly flat. There is a creek located on parcel six, which follows the topography slope of the property. There are no know streams, wetlands or floodplain located on the other parcels.

A neighborhood meeting is scheduled to be held March 28, 2019, to discuss the proposed rezoning.



PLANNING COMMISSION STAFF REPORT

STANDARDS OF REVIEW

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 proposed R-60 zoning is in line with the recommended use of the suburban character area. The suburban character area calls for single-family detached residential homes which the applicant is proposing.

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.

The zoning proposal will permit a use that is suitable in view of the use and development of the adjacent and nearby properties. The proposed zoning is similar to the surrounding zoning of other single-family developments.

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

The subject property has reasonable economic use as currently zoned. The subject property current zoning and site conditions allow for a residential subdivision to be developed.

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

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property or properties. The proposed zoning is a residential use which is similar to the residential zoning in the immediate area.

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 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.

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

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

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

The proposed zoning will not result in use in which will cause excessive or burdensome use of transportation facilities, streets, schools and utilities.

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 COMMISSION STAFF REPORT

ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use	Density Non-Residential (SF/Acre) Residential (Units/Acre)
Adjacent: North	RSM (CZ-83166)	Single-family Residential (The Parks of Stonecrest)	n/a
Adjacent: South	R-100 (DeKalb County)	Institutional Use (Honey Creek Pump)	n/a
Adjacent: East	RSM (CZ-83166)	Single-family Residential (The Parks of Stonecrest)	n/a
Nearby: West	R-60 (CZ-04120)	Single-family Residential (The Parks of Stonecrest)	n/a

The surrounding area can be characterized as residential zoning tracts. Located to the north, east and west of the subject properties are the Parks of Stonecrest Subdivision which are zoned RSM. The Honey Creek Pump Station is located to the south of the subject property and is zoned R-100.

R-60 zoning is designed to use to provide protection for existing development as new subdivisions are created and to provide flexibility in design within new development while protecting surrounding development. R-60 district zoning requires a minimum lot to be 6,000 square feet and the minimum unit's size is 1,200 square feet for single-family detached. The surrounding properties have zoning of RSM and minimum lots of 5,000 square feet and minimum units size of 1,000 square feet. The proposed zoning use would be compatible but would have bigger lots and bigger homes.

The City of Stonecrest Future Development Map as shown on page 77 of the City of Stonecrest Comprehensive Plan identifies the subject property as being within the Character Area Suburban Character Area. The intent of the Suburban 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. Policies for this character area is to protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density. The proposed zoning is recommended use for the area staff believes the development of bigger homes would not alter established single-family residential patterns in the area. The overall development would be in line with the comprehensive plan goals.

The proposed change in zoning is consistent in use and scale with the surrounding uses. Staff believes a change in zoning is suitable in view of the use and development of adjacent and nearby properties. Therefore, the proposed change in zoning would be in keeping with the policies and intent of the Comprehensive Plan and would be suitable in view of its impacts on the adjacent and nearby property, therefore, the Department of Community Development recommends **APPROVAL of RZ-19-002**



PLANNING COMMISSION STAFF REPORT

STAFF RECOMMENDATION

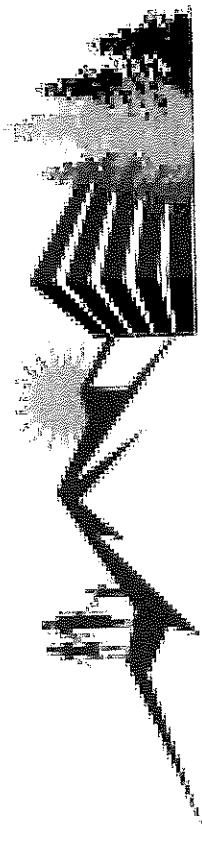
Based on the findings and conclusions, it appears the applicant does meet all the criteria for approval. Therefore Staff recommends approval RZ-19-002.

PLANNING COMMISSION RECOMMENDATION

Planning Commission recommends approval of RZ-19-002.



PLANNING COMMISSION POWER POINT PRESENTATION



THE CITY OF

STONECREST

G E O R G I A

RZ-19-002

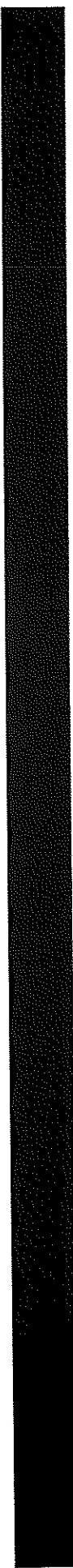
3606 Dogwood Pass, Stonecrest GA

30038



Petition Information

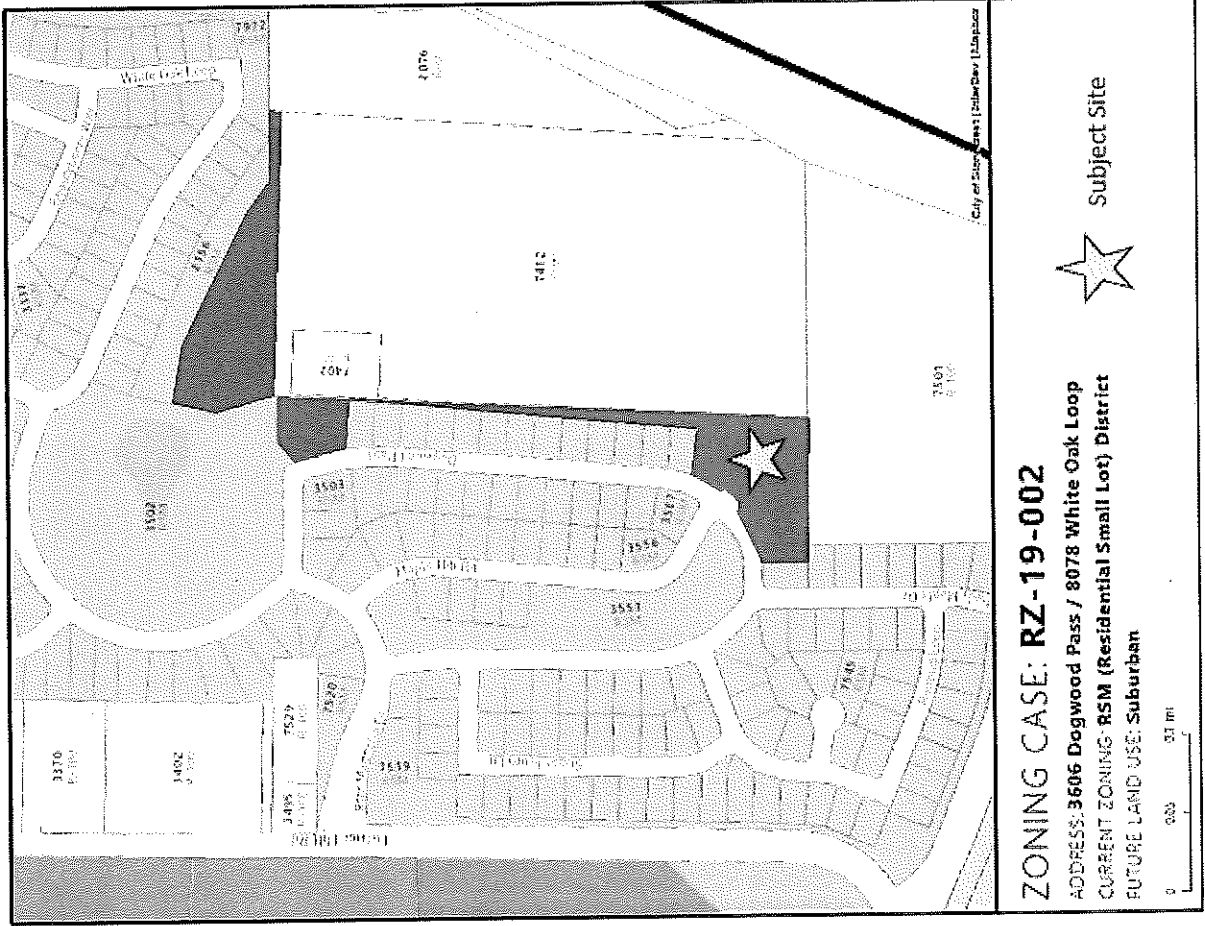
- **APPLICANT:** Stonecrest Capital Partners, LLC c/o Battle Law
- **LOCATION:** 3606 Dogwood Pass
- **ACREAGE:** 5.33
- **REQUEST:** The applicant is requesting to change zoning in Phase IV of existing 117 unit The Parks of Stonecrest Subdivision property from RSM to R-60.



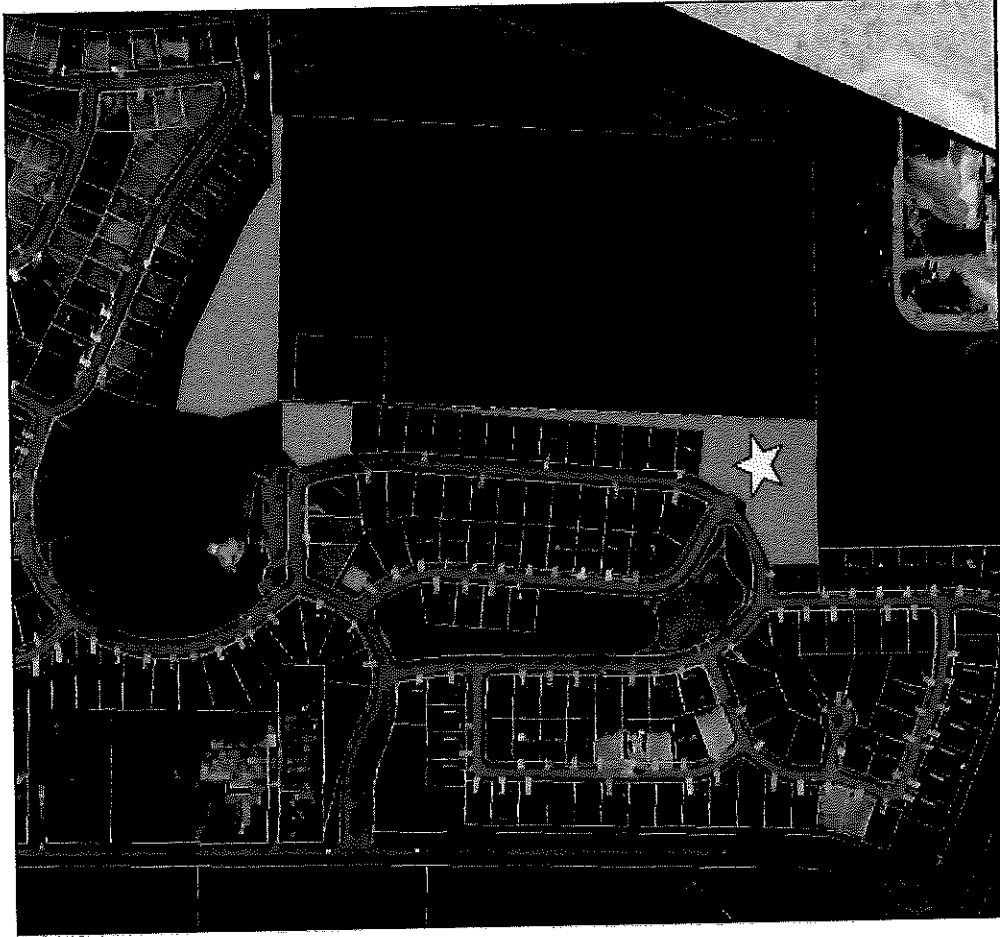
General Information

- Current zoning: RSM (Small Lot Residential Mix) District
- Future Land Use Character Area: Subdivision
- Policies for this area emphasize:
 - Protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density.
 - Promote moderate density, traditional neighborhood development style residential subdivisions, which may utilize alley ways and rear vehicular access, as well as automobile dependency.
- Surrounding uses: Residential (Single-family homes).
- Surrounding zoning: R-100

Zoning Map



Aerial Map



ZONING CASE: RZ-19-002

ADDRESS: 3606 Dogwood Pass / 8078 White Oak Loop

CURRENT ZONING: RSM (Residential Small Lot) District

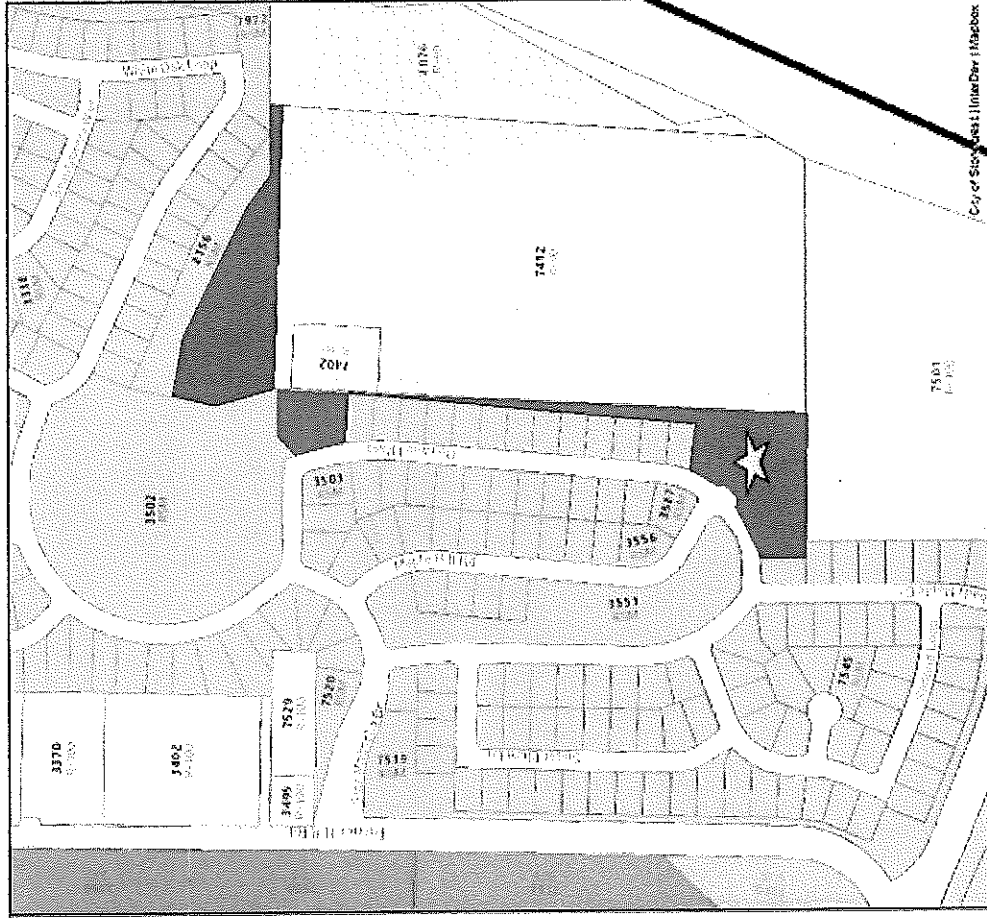
FUTURE LAND USE: Suburban



Subject Site

0 005 01 mi

Future Land Use Map



ZONING CASE: RZ-19-002

ADDRESS: 8078 Dogwood Pass / 8078 White Oak Loop

CURRENT ZONING: RSM (Residential Small Lot) District

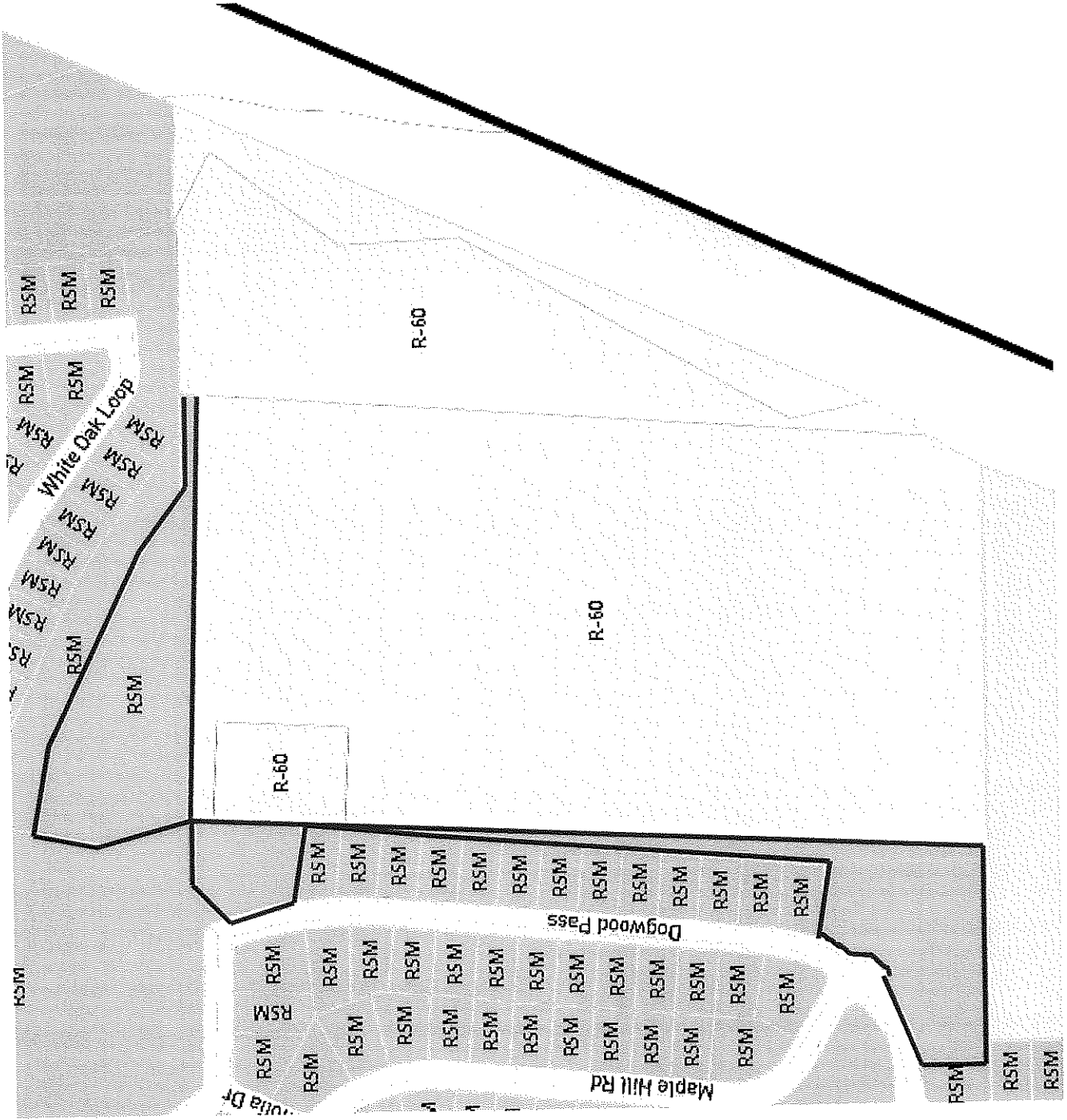
FUTURE LAND USE: Suburban

0.1 mi

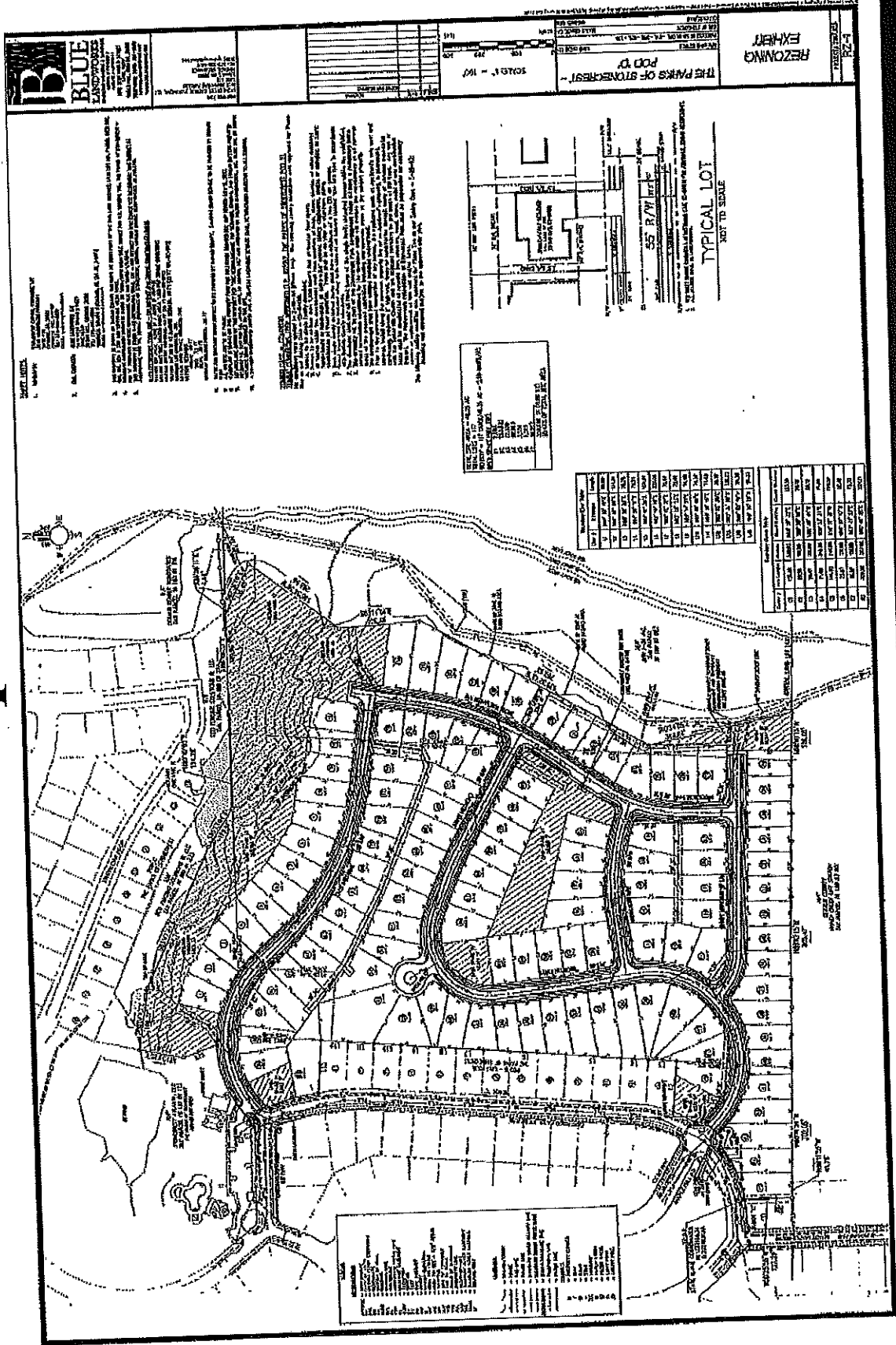


Subject Site

City of St. Louis, Missouri



Site Plan of the Proposed Development.





PREPARED BY
BLUE LANDWORKS
 1000 S. UNIVERSITY AVENUE, SUITE 200
 DENVER, CO 80202
 (303) 733-8800
 www.bluelandworks.com

DATE: 08/14/08
 PROJECT: THE PARKS OF STONECREST
 SHEET: 108

SCALE	1" = 40'
DATE	08/14/08
DRAWN BY	J. SMITH
CHECKED BY	M. JONES

THE PARKS OF STONECREST
 FOR
ATTACHED LAND
 PLATS BY
 FOR
 PORTION OF
 PORTION OF

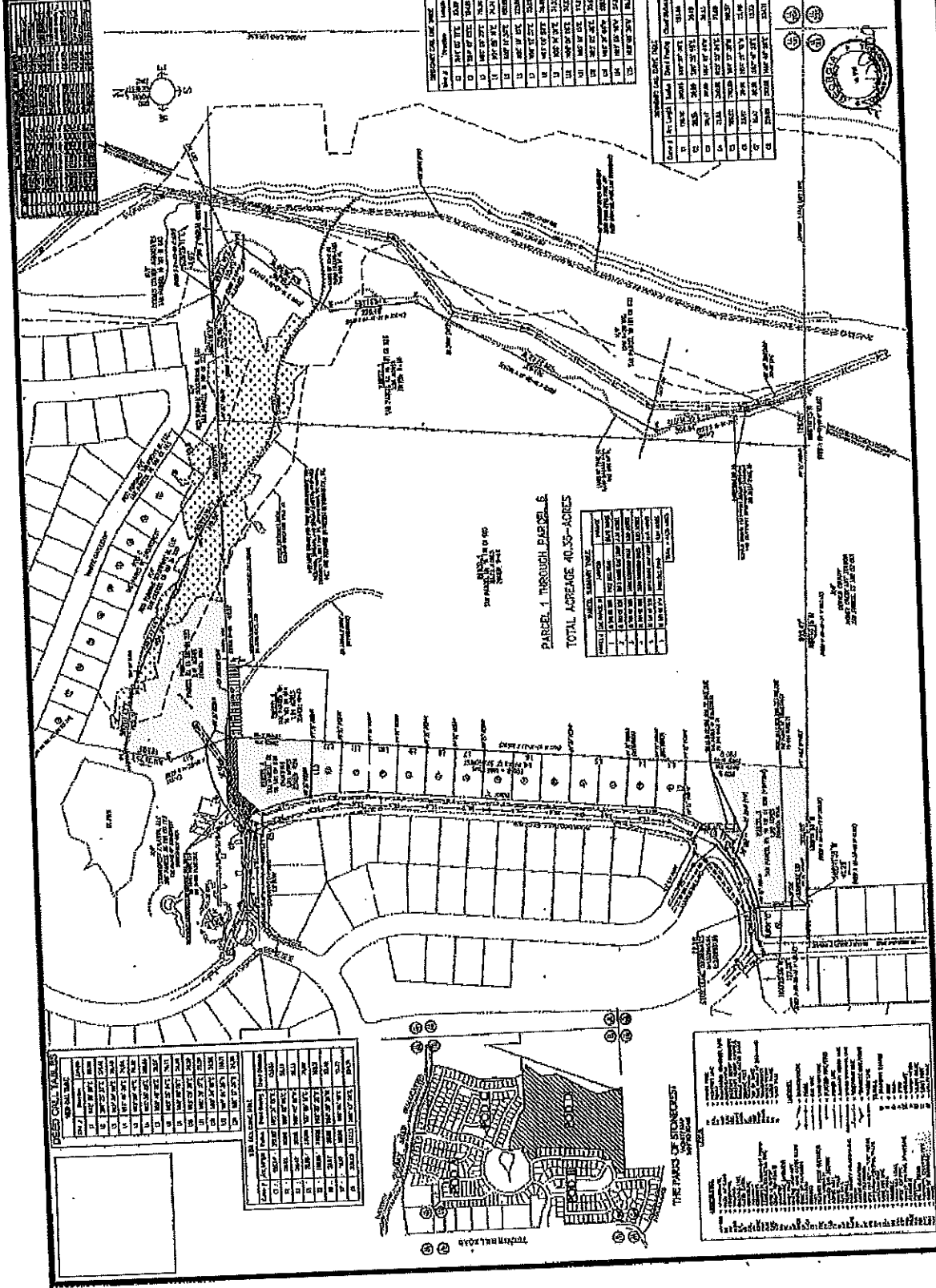
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1	10.00	10.00
2	10.00	20.00
3	10.00	30.00
4	10.00	40.00
5	10.00	50.00
6	10.00	60.00
7	10.00	70.00
8	10.00	80.00
9	10.00	90.00
10	10.00	100.00

PROJECT: THE PARKS OF STONECREST
 SHEET: 108

THE PARKS OF STONECREST
 FOR ATTACHED LAND
 PLATS BY
 FOR PORTION OF
 PORTION OF

TRACT	ACRES	TOTAL
1	10.00	10.00
2	10.00	20.00
3	10.00	30.00
4	10.00	40.00
5	10.00	50.00
6	10.00	60.00
7	10.00	70.00
8	10.00	80.00
9	10.00	90.00
10	10.00	100.00

PROJECT: THE PARKS OF STONECREST
 SHEET: 108



PARCEL 1 THROUGH PARCEL 6
 TOTAL ACRES: 40.00-ACRES

TRACT	ACRES	TOTAL
1	10.00	10.00
2	10.00	20.00
3	10.00	30.00
4	10.00	40.00
5	10.00	50.00
6	10.00	60.00

DEED GRANTS

TRACT	ACRES	TOTAL
1	10.00	10.00
2	10.00	20.00
3	10.00	30.00
4	10.00	40.00
5	10.00	50.00
6	10.00	60.00

THE PARKS OF STONECREST

TRACT	ACRES	TOTAL
1	10.00	10.00
2	10.00	20.00
3	10.00	30.00
4	10.00	40.00
5	10.00	50.00
6	10.00	60.00

THE PARKS OF STONECREST

TRACT	ACRES	TOTAL
1	10.00	10.00
2	10.00	20.00
3	10.00	30.00
4	10.00	40.00
5	10.00	50.00
6	10.00	60.00



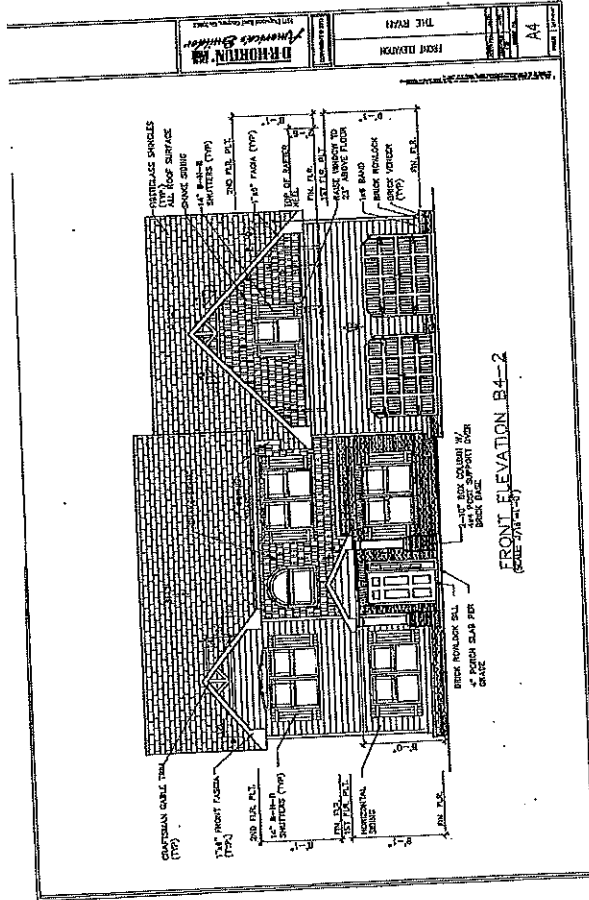
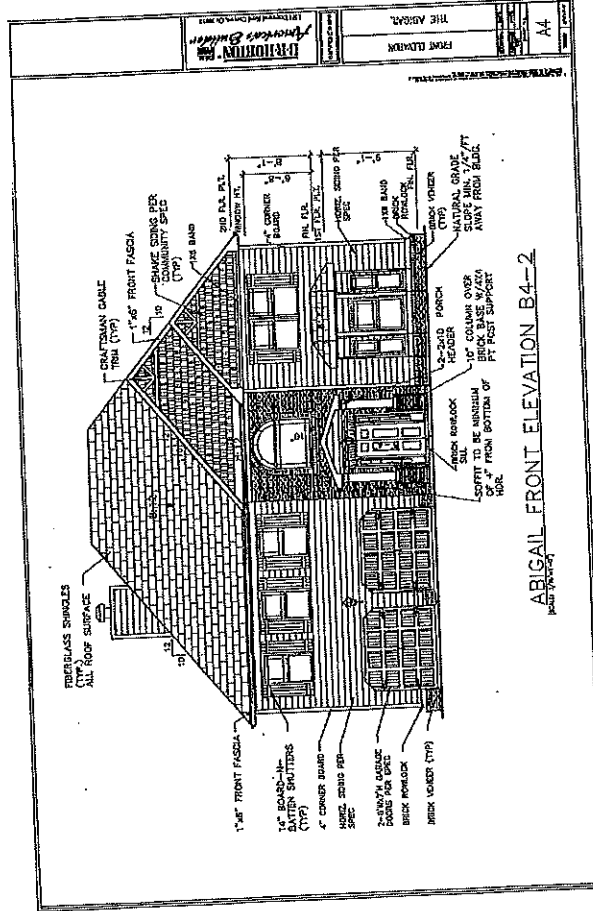
THE PARKS OF STONECREST

THE PARKS OF STONECREST

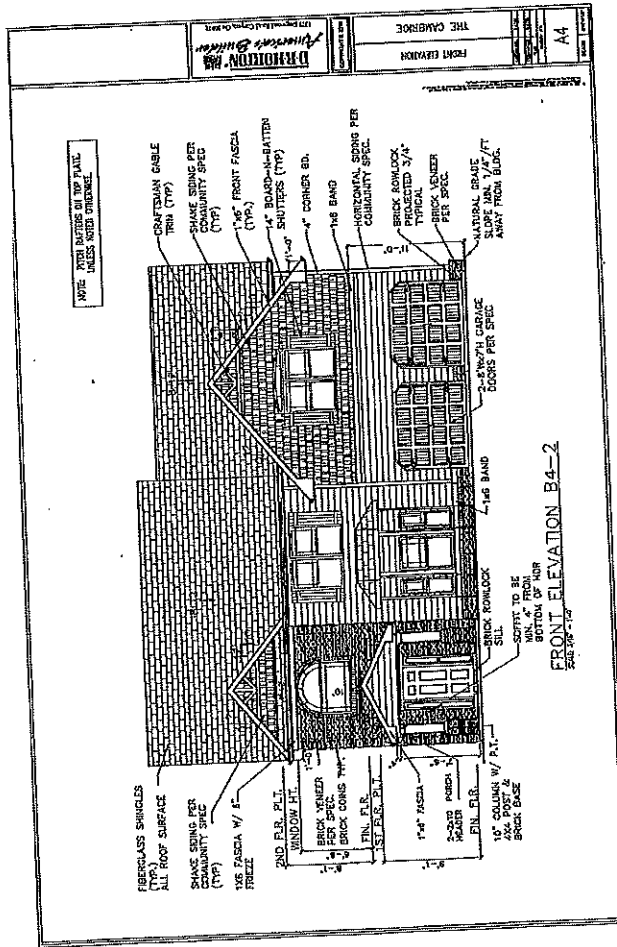
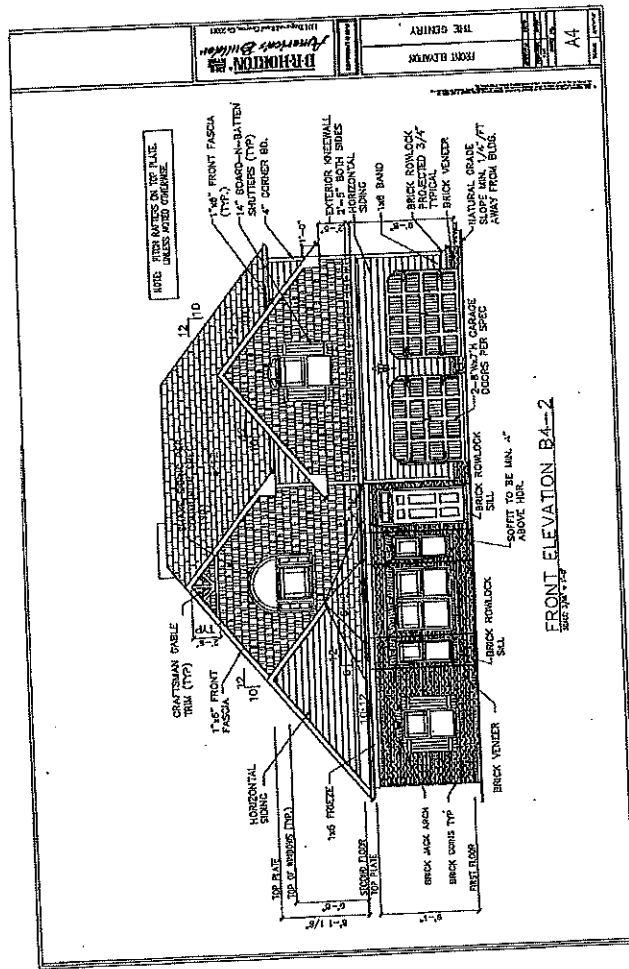
THE PARKS OF STONECREST

THE PARKS OF STONECREST

Proposed Front Elevations



Proposed Front Elevations



Standards of Review

- Whether the zoning proposal is in conformity with the policy and intent of 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 property or properties.
- Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
- Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.
- 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.
- Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.
- Whether the zoning proposal will result in use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

Staff Analysis

Staff comments:

- The use would be suitable in view of adjacent and nearby property or properties. The subject properties are part of the existing subdivision development.
- The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property or properties. The proposed zoning is a residential use which is compatible with the residential zoning in the immediate area.

Recommend Conditions

Based upon the findings and conclusions, it appears the applicant does meet all the criteria for approval.



CITY COUNCIL AGENDA ITEM

**SUBJECT: RZ 19-004 Residential Rezoning Request
Creekwood Conservation Subdivision**

- ORDINANCE** **POLICY** **STATUS REPORT**
 DISCUSSION ONLY **RESOLUTION** **OTHER**

Date Submitted: 04/15/19 Work Section: Council Meeting: 04/22/2019

SUBMITTED BY: Nicole C.E. Dozier, Community Development Director

PURPOSE: Staff is recommending rezoning this property in order to continue with an existing conservation project carried over from DeKalb County.

HISTORY: This item was heard at the April 2, 2019 Planning meeting. Staff is recommending correcting the zoning on Phase 4 of this existing subdivision project from Residential to Neighborhood Conservation (RNC) to accurately reflect this conservation development that is clustering 149 homes, preserving historic Flat Rock cemetery and preserving existing water bodies.

OPTIONS: Approve; Deny; or make Alternative conditions

RECOMMENDATED ACTION:

Staff recommended approval with conditions of petition RZ 19 -004 at the April 2, 2019 meeting. Planning Commission recommended approval with conditions of petition RZ 19 - 004 at the April 2, 2019 meeting. The conditions as per the general notes of the 2005 approved sketch plan.

RZ 19-004 CREEKWOOD CONSERVATION SUBDIVISION CONDITIONS:

1. The owner of the property is responsible for compliance with the Corps of Engineers' requirement regarding wetlands.
2. All utilities to be located underground.
3. Protective covenants will be filed with recording of Final Plat.
4. Streetlights to be provided prior to Final Plat.
5. Sidewalks are required.
6. Sketch plat approved does not constitute approval of the storm drainage or sanitary sewer systems. No construction shall begin until construction plans are approved and a development permit obtained.
7. Recorded off-site sewer easement required prior to issuance of development permit.
8. All proposed streets are planned to be 12% grade or less. If a grade greater than 12% is necessary, approval from the development director will be required.
9. A 75' Tributary buffer will be maintained on all state waters that are not approved for a buffer encroachment variance by DeKalb County or GA E.P.D.
10. 5' planting strips, 5' concrete sidewalks, and 6' header curb to be provided on both sides of all interior streets. A.D.A ramps to be provided at all street intersections.

ATTACHMENTS:

- #1 4/2/19 Staff Report
- #2 4/2/19 PowerPoint Presentation



PLANNING COMMISSION STAFF REPORT(S)



PLANNING COMMISSION STAFF REPORT

MEETING DATE: April 2, 2019

GENERAL INFORMATION

Petition Number: RZ-19-004 Creekwood Conservation Subdivision

Applicant: Community Development Department

Owner: D.R. Horton

Project Location: Browns Mills and Lyons

District: 4

Acreage: 114 acres

Existing Zoning: R-100 Residential Medium Lot District

Proposed Zoning: RNC Neighborhood Conservation

Proposed Development/Request: Staff is recommending rezoning this property in order to continue with an existing a conservation project carried over from Dekalb County.

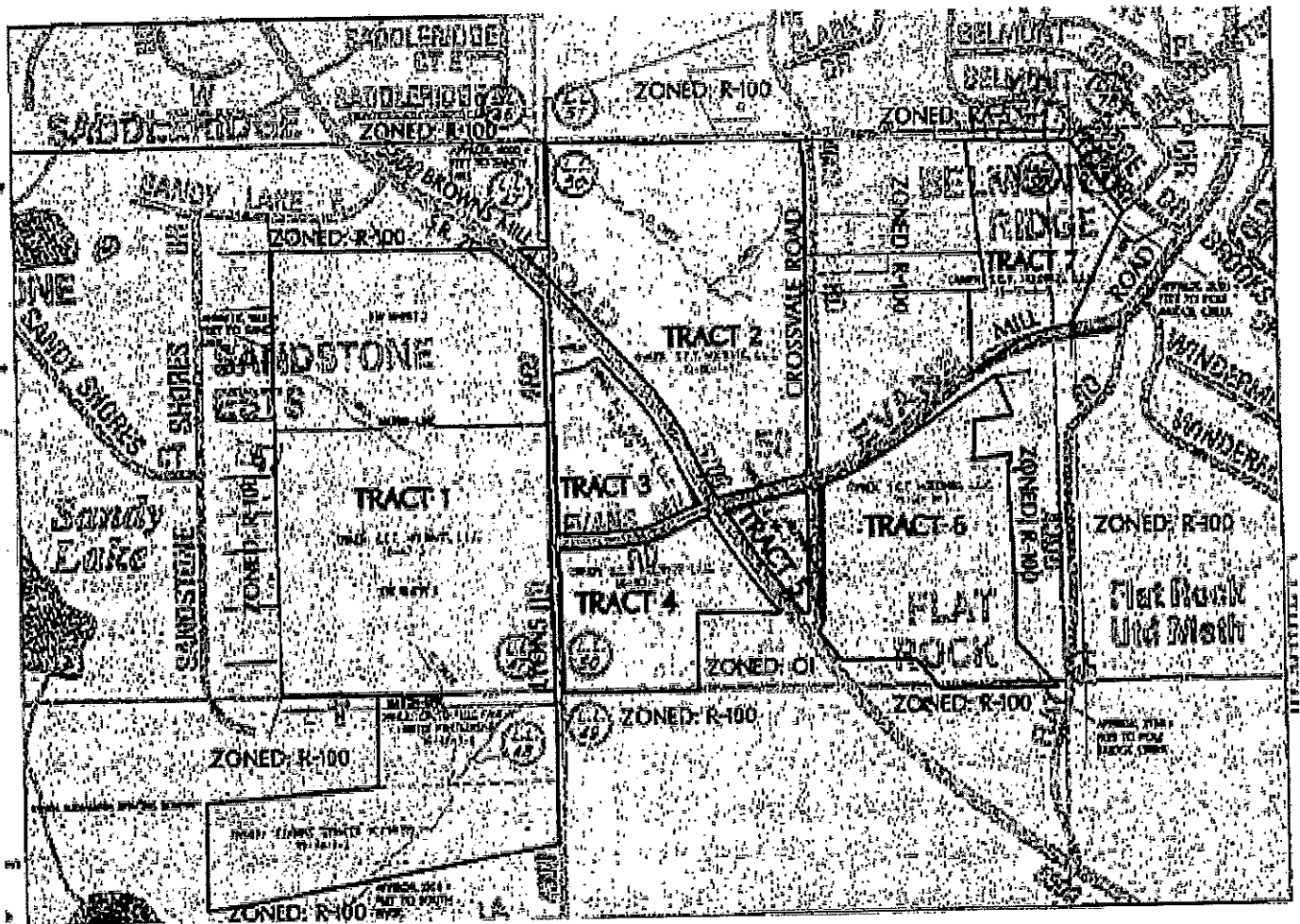
Staff Recommendations: Approval



PLANNING COMMISSION STAFF REPORT

PROJECT OVERVIEW

In 2005, DeKalb County Planning and Sustainability Department approve the Sketch Plat Creekwood Conservation Subdivision project. The project consisted of 7 different tracts. So far 5, 6, & 4 tracts have been completed and 2, 3 tracts have been started. During the initial beginning of this project the property was not rezoning to the appropriate zoning classification.

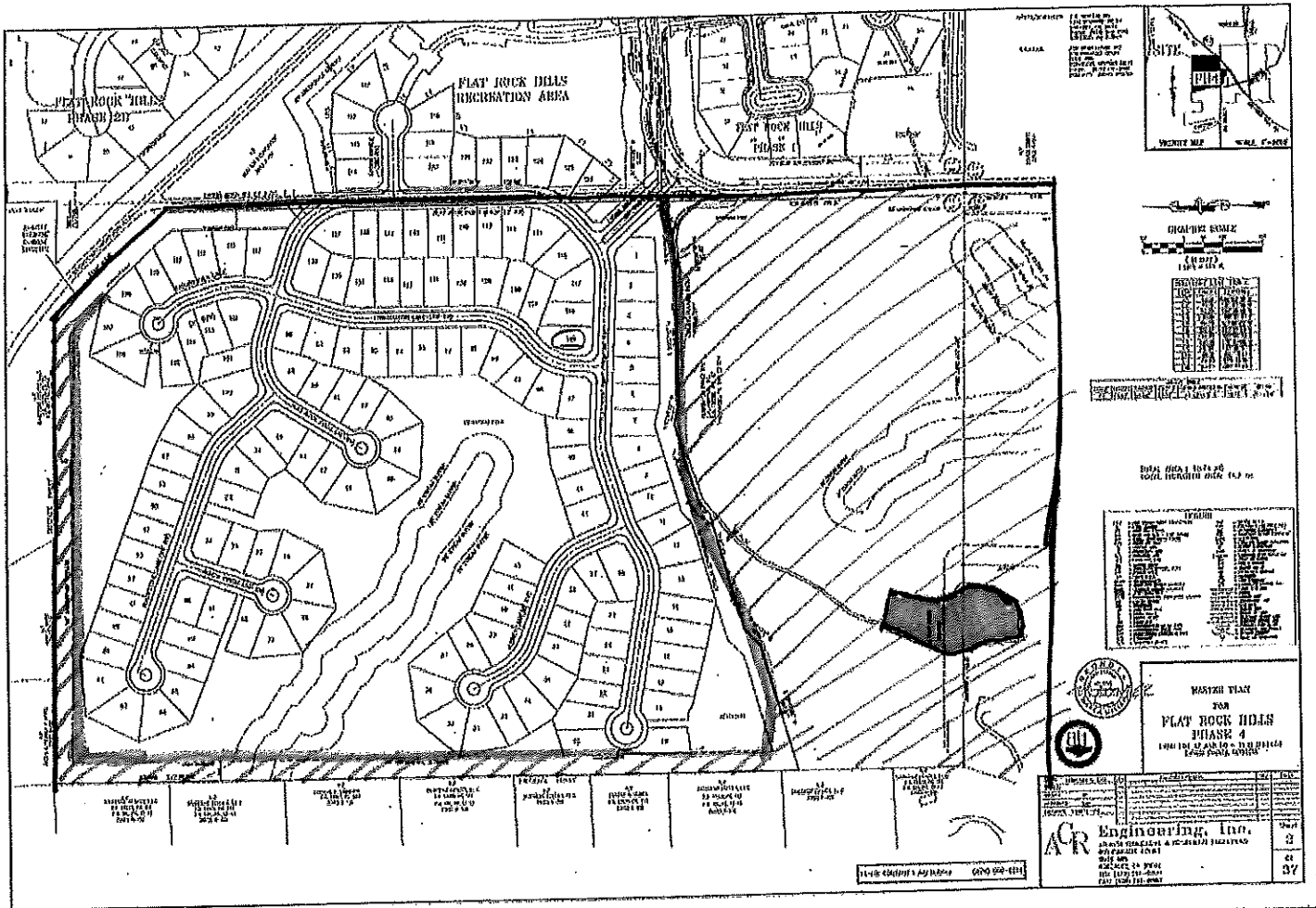


Now that the project is now starting under the City of Stonecrest (specifically Tract 1) and we do not typically work off of approved "Sketch Plats" (city requires final plats), in order not to delay the project staff is modifying the zoning classification be changed to RNC to reflect the development standards of the conservation zoning district.



PLANNING COMMISSION STAFF REPORT

The owner intends on developing 149 residential dwelling units in accordance with the RNC zoning classification in order to allow the preservation of green space and a historic cemetery located on the site.





PLANNING COMMISSION STAFF REPORT

STANDARDS OF REVIEW

- **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 future land use character area for the property is the Suburban.
- **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.**
The use would not be suitable in view of adjacent and nearby property or properties.
- **Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.**
The subject property has reasonable economic use as currently zoned.
- **Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.**
The zoning proposal would not adversely affect the existing use or usability of adjacent or nearby property or properties.
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.
The site has a historic cemetery on site that they are trying to preserve in conjunction with DeKalb County and the City.
- **Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.**
The proposal will not adversely affect historic buildings, sites, districts, or archaeological resources.
- **Whether the zoning proposal will result in use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**
The proposed zoning will not result in use in which will cause excessive or burdensome use of transportation facilities, utilities, and schools.
- **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. It will in fact preserve the existing historic and natural resources.



PLANNING COMMISSION STAFF REPORT

ANALYSIS

The area characterized as residential as indicated in the chat below:

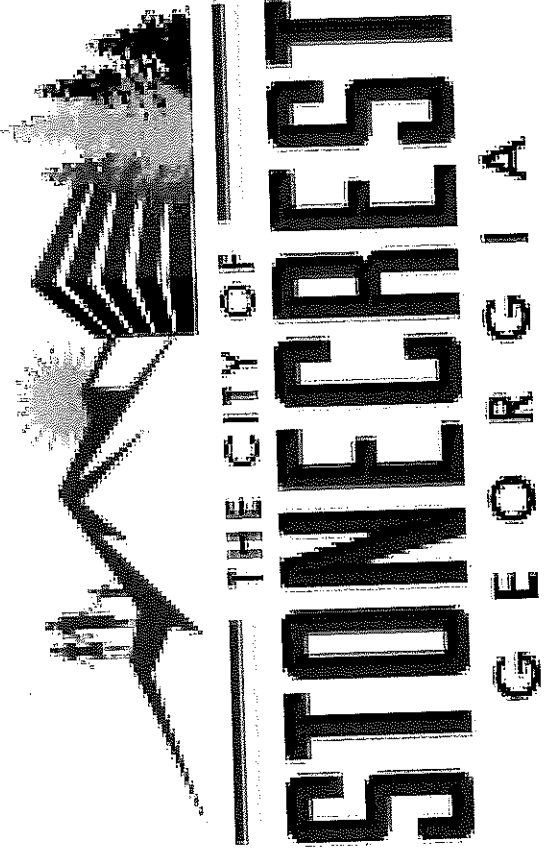
Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use	Density Non-Residential (SF/Acre) Residential (Units/Acre)
Adjacent: North	R-100	Residential	n/a
Adjacent: South	R-100	Single-family Residential	n/a
Adjacent: East	R-100	Recreational	n/a
Nearby: West	R-100	Single-family Residential	n/a

RECOMMENDATION

Based on the findings and conclusions, it appears the site meets the criteria for approval.

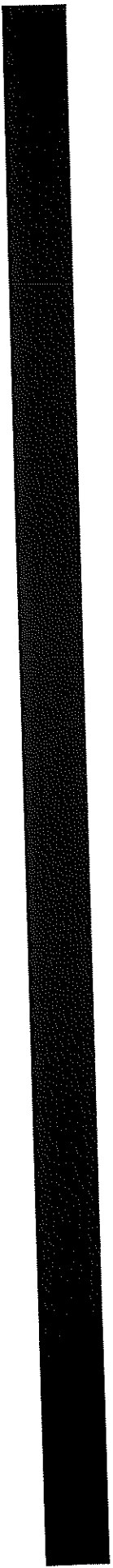


PLANNING COMMISSION POWER POINT PRESENTATION



RZ-19-004

**Creekwood Conservation
Subdivision**



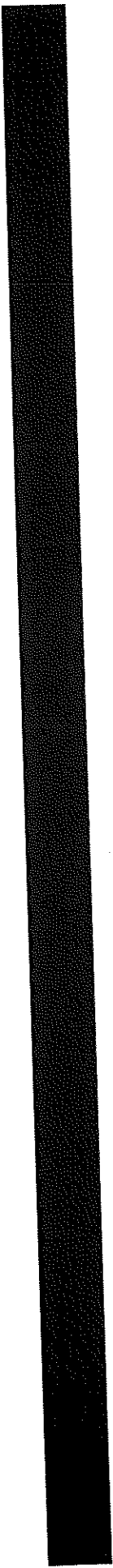
Petition Information

APPLICANT: Community Development/D.R. Horton

LOCATION: Browns Mills and Lyons Rd

ACREAGE: 114

REQUEST: Staff is recommending to rezone subject property from R-100 to RNC to continue Conservation Subdivision development.



General Information

Current Zoning: Residential Medium Lot (R-100)

Future Land Use Character Area:

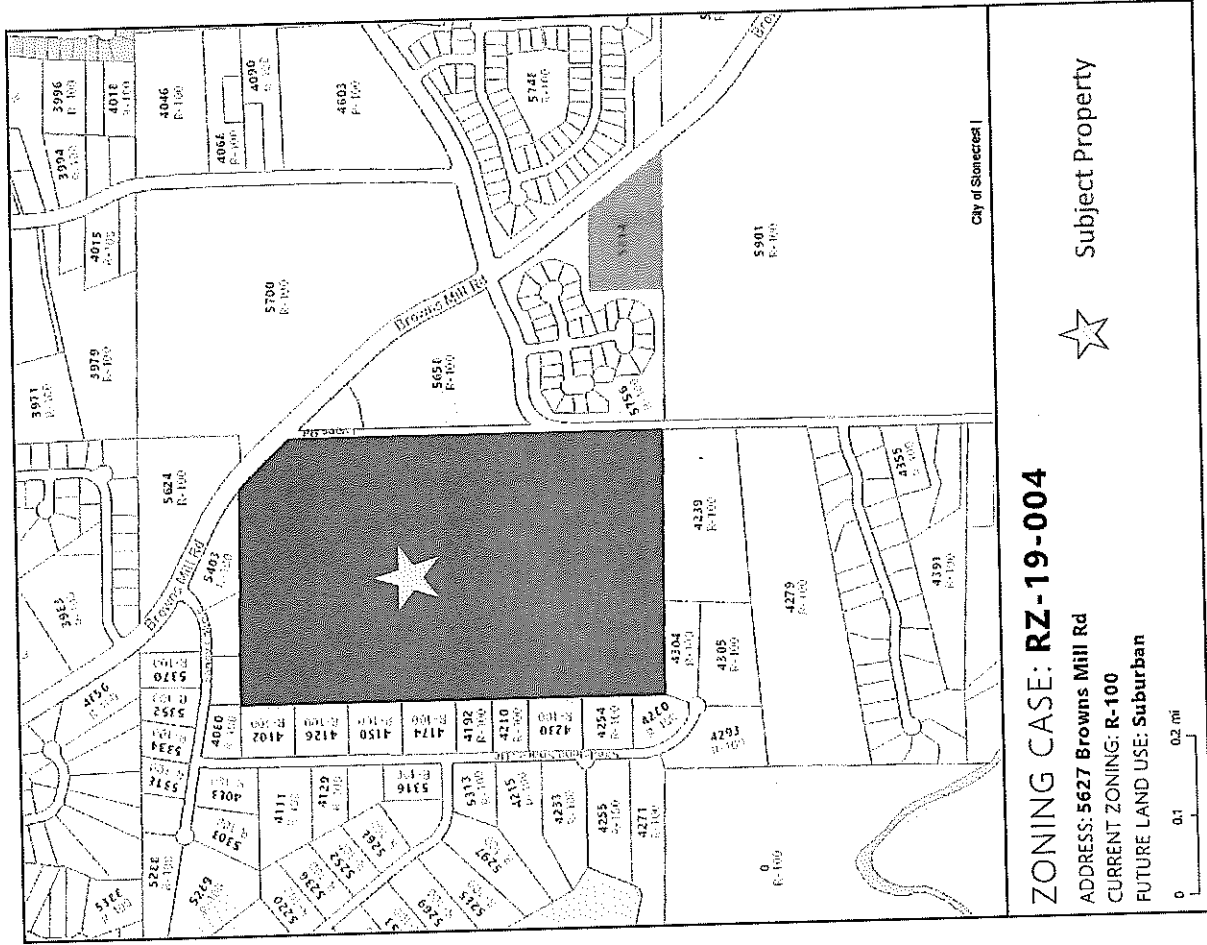
Applicable Policies :

Surrounding Uses: Residential

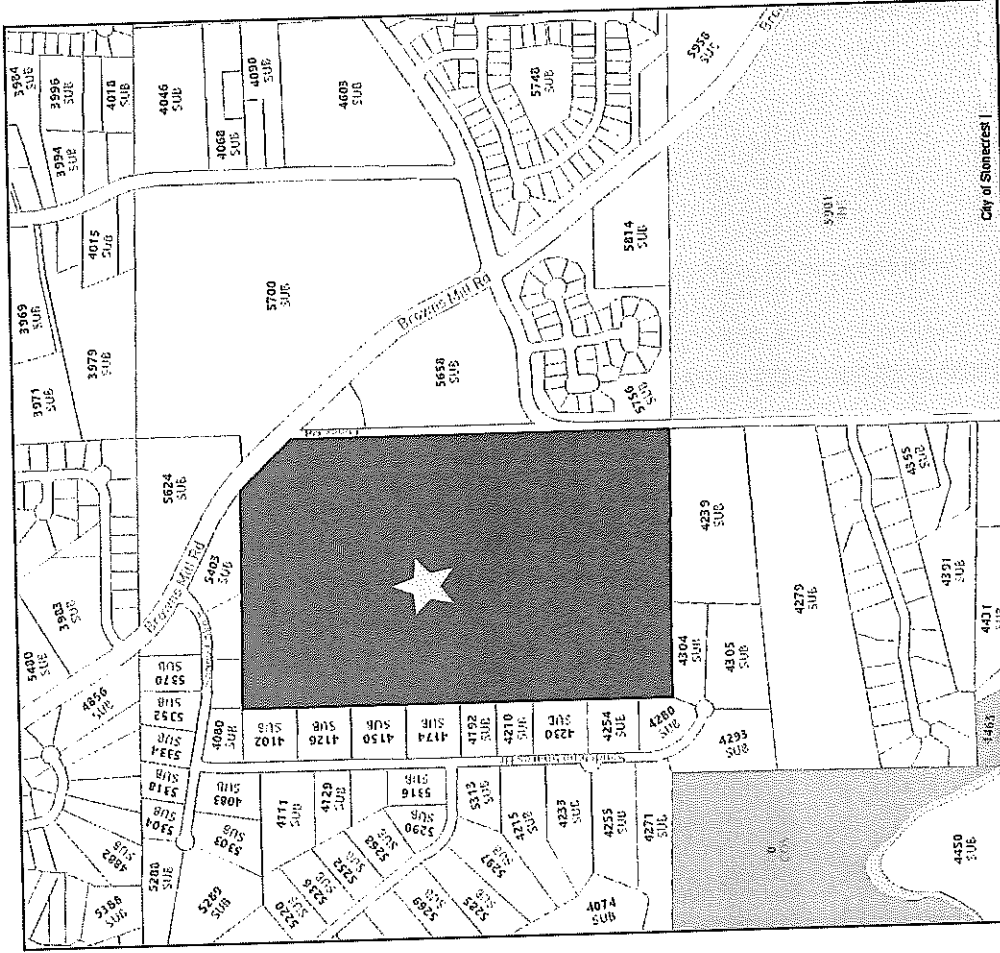
Surrounding Zoning: Residential



Zoning Map



Future Land Use Map



ZONING CASE: RZ-19-004

ADDRESS: 5627 Browns Mill Rd

CURRENT ZONING: R-100

FUTURE LAND USE: Suburban

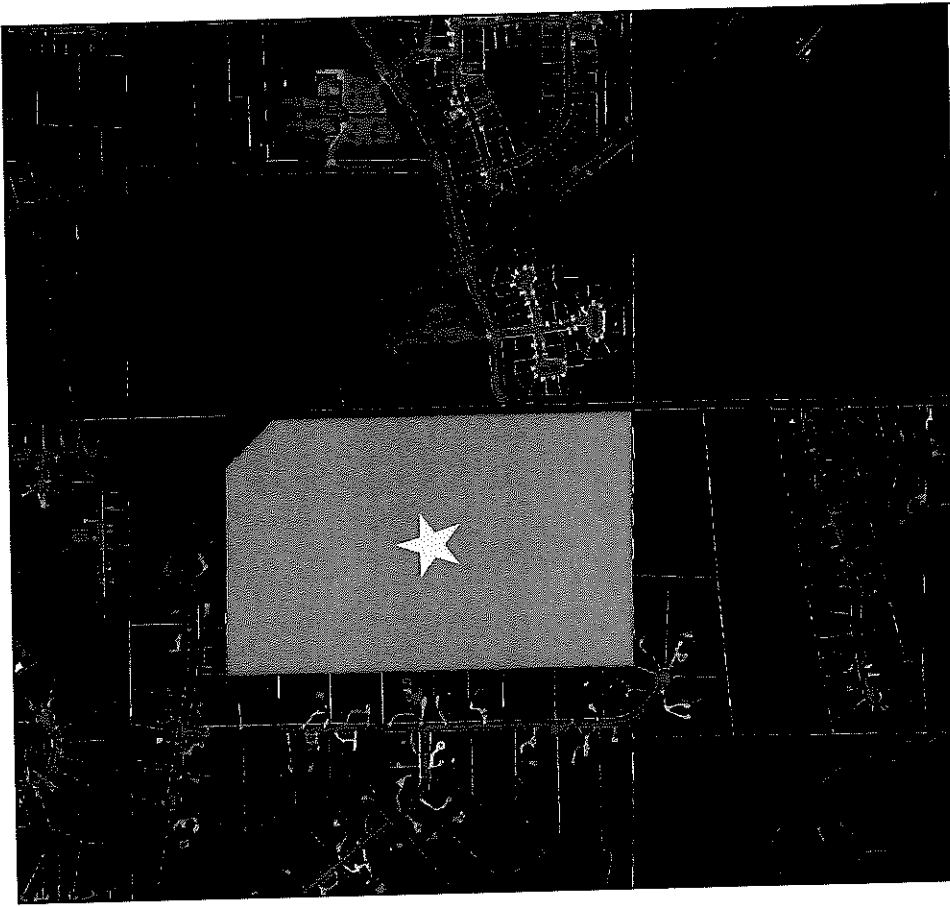
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Subject Property

City of Stonecrest

Aerial Map



ZONING CASE: **RZ-19-004**

ADDRESS: **5627 Browns Mill Rd**

CURRENT ZONING: **R-100**

FUTURE LAND USE: **Suburban**

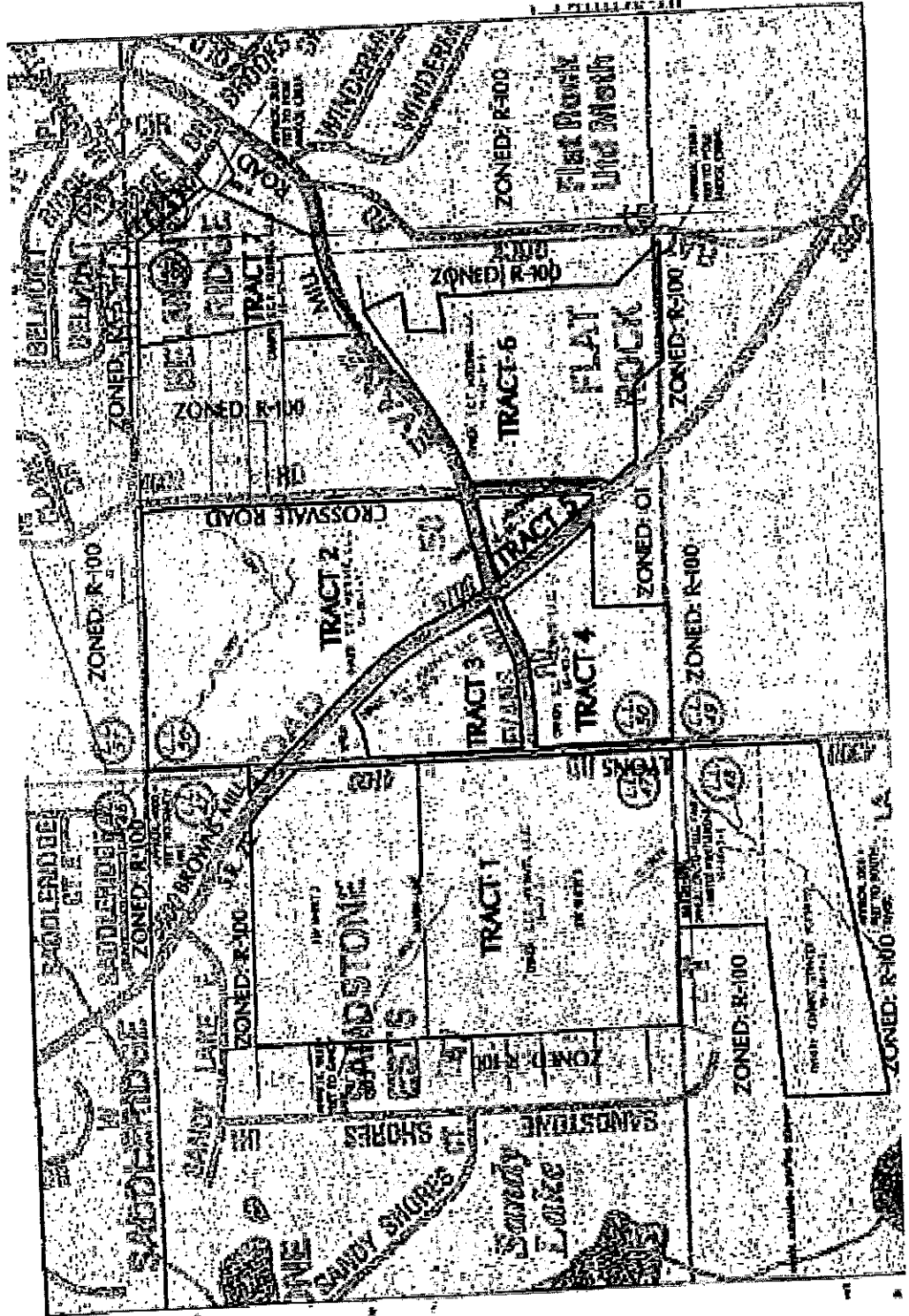
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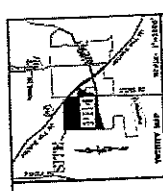
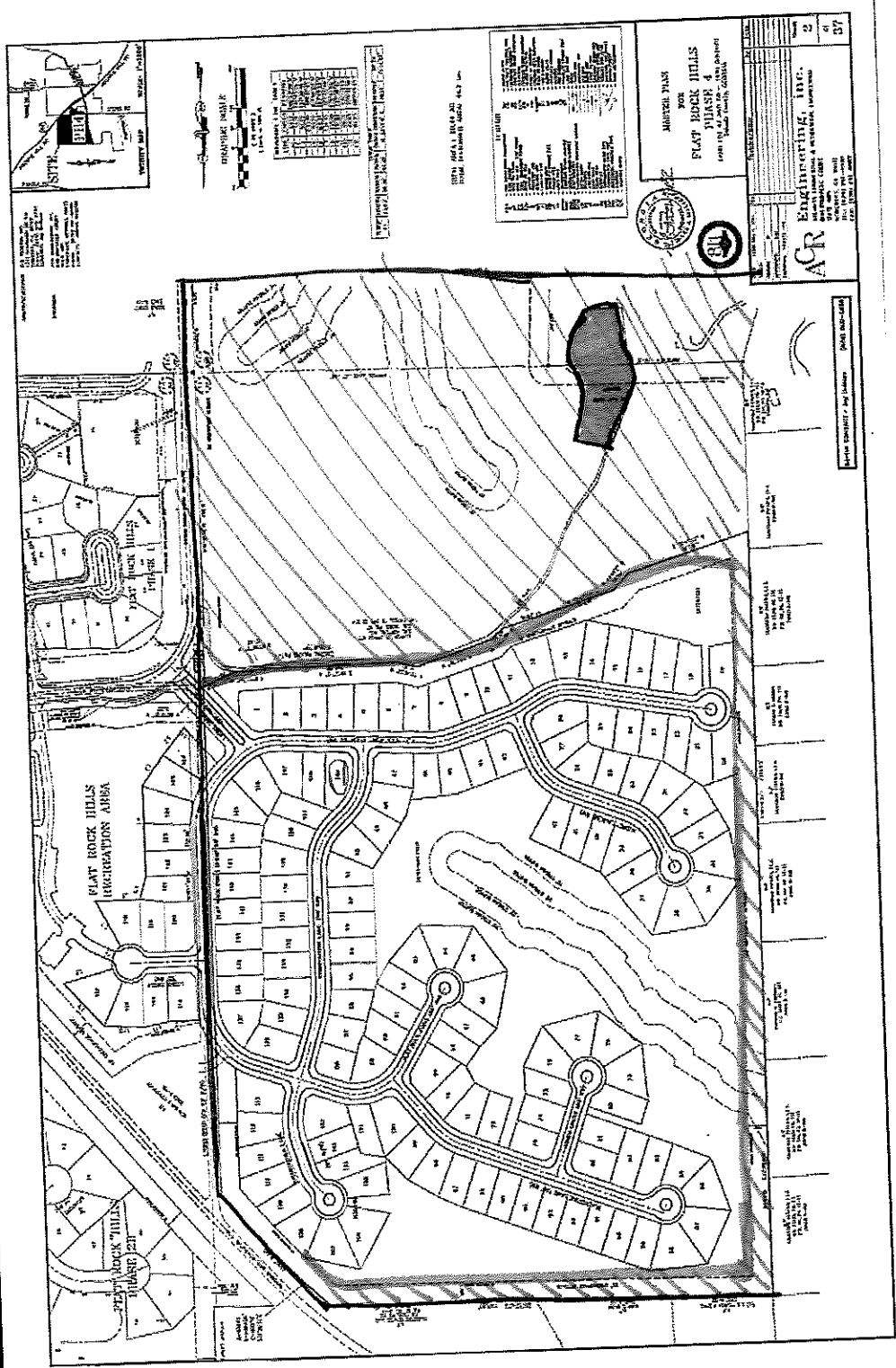
Subject Property



2005 Sketch Plan of the Site



2019 Proposed Site Plan



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APPROVED THIS
 DATE FOR
 FLAT ROCK HILLS
 PHASE 4
 100% SITE PLAN SUBMITTAL

AR Engineering, INC.
 1000 W. 10th Street, Suite 100
 Oklahoma City, Oklahoma 73106
 Phone: (405) 555-1111
 Fax: (405) 555-1112
 Email: info@ar-engineering.com

DATE: 08/14/19
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Recommend Conditions

Based upon the findings and conclusions, it appears the applicant does meet all the criteria for approval.

Staff recommends that approval be subject to the following conditions:

- The site be developed in compliance with the Neighborhood Conservation (RNC) zoning district.
- Sketch Plan Notes 23-27, 31, 31, 33-35 remain applicable to site.



CITY COUNCIL AGENDA ITEM

SUBJECT: SLUP 19-001 Personal Care Home (3317 Panola Road, Stonecrest, GA 30038)


ORDINANCE **POLICY** **STATUS REPORT**

DISCUSSION ONLY **RESOLUTION** **OTHER**

Date Submitted: 04/15/19

Work Section:

Council Meeting: 04/22/2019

SUBMITTED BY: Nicole Dozier, Community Development Director 

PURPOSE: The applicant is requesting a Special Land Use Permit (SLUP) to operate a Personal Care Home four to six (4-6) residents within an R-100 (Medium Lot Residential) District, in, accordance with Chapter 27 – Article 4.1 Use Table and Sections 4.2.41.B of Stonecrest Zoning Code

HISTORY: This item was originally heard at the April 2nd Planning meeting. The Planning Commission recommend denial of SLUP-19-001.

OPTIONS: Approve; Deny; or make Alternative conditions

RECOMMENDATED ACTION:

Staff recommended denial of petition SLUP 19-00 at the April 2, 2019 meeting. Planning Commission recommended denial of petition SLUP 19-001 at the April 2ND, 2019 meeting.

ATTACHMENTS:

- #1 4/2/19 Staff Report
- #2 4/2/19 PowerPoint Presentation



PLANNING COMMISSION STAFF REPORT(S)



PLANNING COMMISSION STAFF REPORT

MEETING DATE: April 2, 2018

GENERAL INFORMATION

Petition Number: SLUP 19-001

Applicant: Dileane Matthews

Owner: Ashli Matthews

Project Location: 3317 Panola Road Stonecrest Ga 30038

District: District 3

Acreage: 0.5 Acres

Existing Zoning: Residential Med Lot (R-100)

Proposed Zoning: Residential Med Lot (R-100)

Proposed Development/Request: The applicant is requesting a Special Land Use Permit (SLUP) to operate a Personal Care Home four to six (4-6) residents within in an R-100 (Medium Lot Residential) District, in accordance with Chapter 27- Article 4.1 Use Table and Sections 4.2.41. B of Stonecrest Zoning Code.

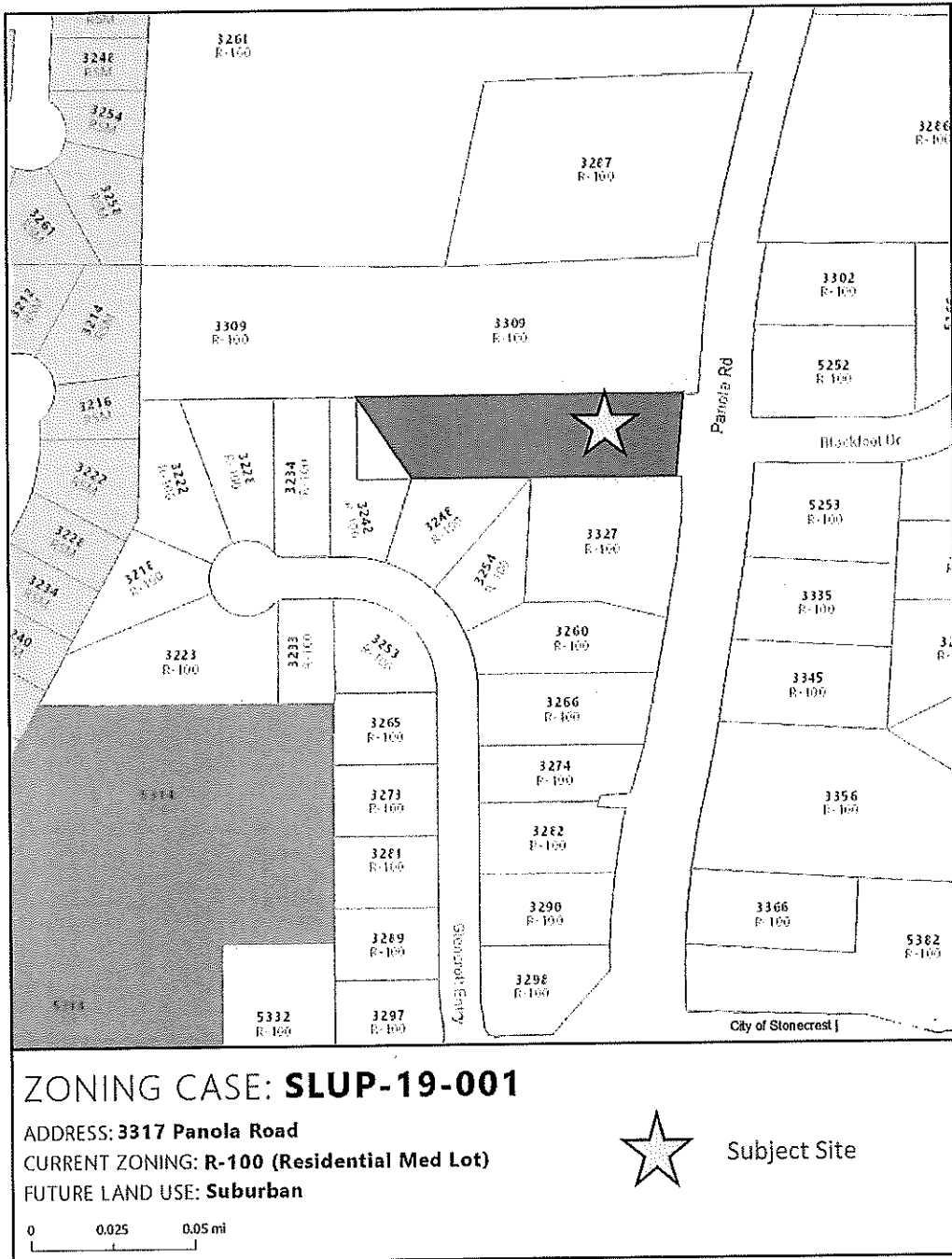
Staff Recommendations: DENIAL

Planning Commission: DENIAL



PLANNING COMMISSION STAFF REPORT

Zoning Map





PLANNING COMMISSION STAFF REPORT

Aerial Map



ZONING CASE: **SLUP-19-001**

ADDRESS: **3317 Panola Road**

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

FUTURE LAND USE: **Suburban**



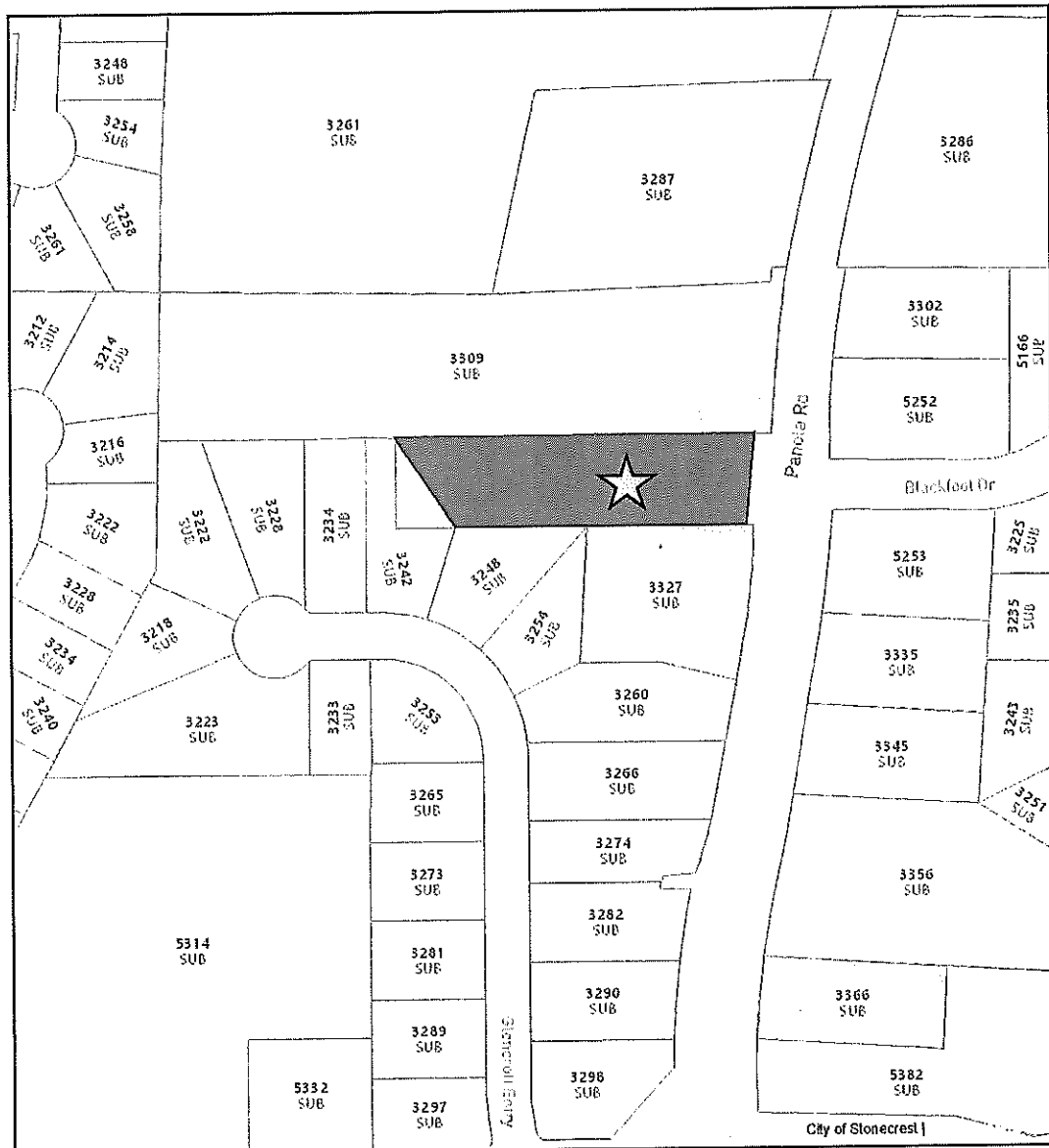
Subject Site

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PLANNING COMMISSION STAFF REPORT

Future Land Use Map



ZONING CASE: SLUP-19-001

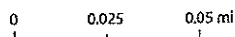
ADDRESS: 3317 Panola Road

CURRENT ZONING: R-100 (Residential Med Lot)

FUTURE LAND USE: Suburban



Subject Site



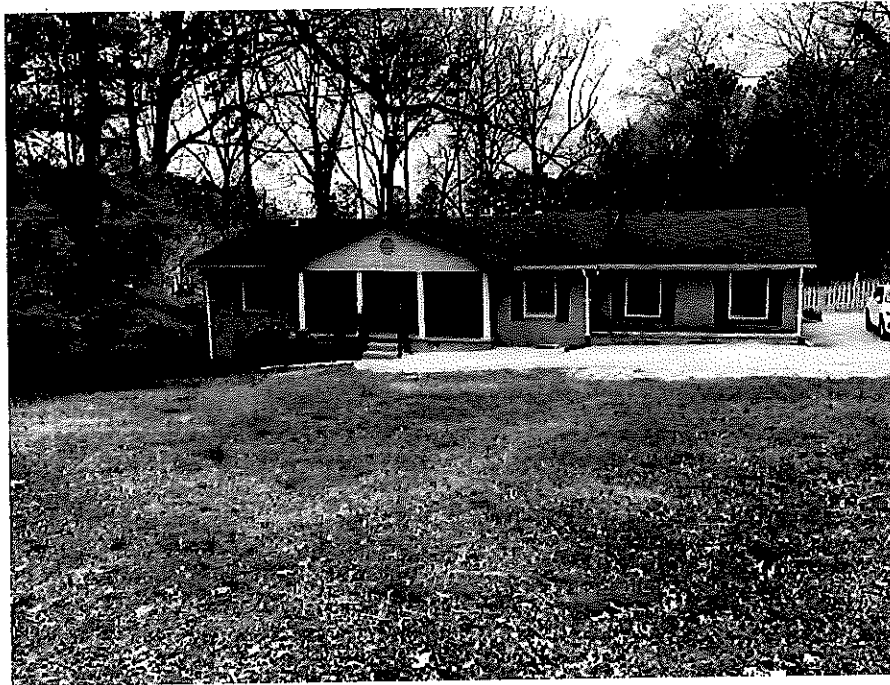


PLANNING COMMISSION STAFF REPORT

PROJECT OVERVIEW

The subject site is an existing single-family residence located on Panola Road, located to the north of the Hilson Head Subdivision in the Stonecrest City limits. The subject property is approximately 880 feet north of Panola Road and Rock Springs intersection. The site is zoned R-100 (Residential Med Lot) District for 15,000 square foot minimum lot area. Located on the 0.5 acres and the residence is 1,819 square foot single-family residence built in 1967. Access is available via the existing driveway on Panola Road. The existing residence is surrounded by single-family residences.

Front elevation of the subject property



The applicant is requesting a Special Land Use Permit to a personal care home. The subject location will house between four to six individuals with a rotating counselor shift at the property. The applicant will provide transportation to and from school for the residents and provide forms of healthy therapeutic activities for them as well.

The topography of the subject property is characterized as even ground towards the residential structure, then a gradual decrease in topography to the northwest towards the rear property line. The surrounding property is characterized as residential uses.



PLANNING COMMISSION STAFF REPORT



Residential Home to the South of Subject Property





PLANNING COMMISSION STAFF REPORT

STANDARDS OF REVIEW

- A. Adequacy of the size of the site for the use contemplated and whether or not the adequate land area is available for the proposed use including the provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.**

The approximately 1,819 square foot residence on 0.5 acres is adequate for the operation of the personal care home.

- B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.**

The proposed personal care home for six (6) person is compatible with another single-family residence Panola Road. There will be no outside physical changes to the existing single-family structure or signage indicating the use is personal care home.

- C. Adequacy of public services, public facilities, and utilities to serve the proposed use.**

The subject property is located in an established single-family residential neighborhood, it appears that there are adequate public services, public facilities, and utilities to serve the proposed personal care home.

- D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.**

Panola Road is a minor arterial, the Planning Staff believes little or no impact on the public streets or traffic in the area.

- E. Whether existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.**

Traffic of the vehicles generated by the proposed use will not adversely impact existing land uses along access routes to the sites.

- F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of a fire or another emergency.**

The existing residential structure on the site is accessed by vehicles via existing curb cut with a driveway on Panola Road. Emergency vehicles can access the site from the existing driveway.

- G. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.**



PLANNING COMMISSION STAFF REPORT

The proposed use may not create an adverse impact upon any adjoining single-family land uses by reason of noise, smoke, odor, dust or vibration,

H. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

Per the information submitted with the application, the applicant intends to run an adult care facility with six residents.

I. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

The operation of the personal care home of 6 residents will not affect the adjoining single-family residence on Panola Road. The site will operate basically as a single-family residence with the owner/operator is required to reside at the property.

J. Whether the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

The R-100 (Residential Medium Lot) District does not allow a personal care home without a Special Land Use Permit.

K. Whether the proposed use is consistent with the policies of the comprehensive plan.

The subject property is in the Suburban Neighborhood Character area designated by the 2035 Comprehensive Land Use Plan. The proposed use is listed as primary land use and is consistent with the policies of the character area. However, there is an existing personal care home located to the south of the subject property

L. Whether the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

Transitional buffers are not required.

M. Whether there is adequate provision of refuse and service areas.

An adequate refuse area will be provided.

N. Whether the length of time for which the special land use permit is granted should be limited in duration.

Staff believes there is a compelling reason to limit the special land use duration. There is another personal care home located next door to the applicant.



PLANNING COMMISSION STAFF REPORT

- O. Whether the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.**

The personal care home would be in an existing residential structure which is consistent in size, scale and massing with adjacent surrounding single-family residence in the area.

- P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.**

This use will not adversely affect any historic buildings, sites, districts, or archaeological resources.

- Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.**

Personal Care homes must provide at least four (4) parking spaces within a driveway, garage or carport and must comply with any appliance requirement in Article 6 - Parking. The subject site meets this requirement.

- R. Whether the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.**

Adjacent and surrounding residential properties are one-story frame structures which are the same as the existing residence on the site. There will be no negative shadow impact on any adjoining lot.

- S. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.**

The proposed use would be consistent with the needs of the community as a whole, as it appears there are no immediate personal care homes within the immediate area.



PLANNING COMMISSION STAFF REPORT

ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use	Density Non-Residential (SF/Acre) Residential (Units/Acre)
Adjacent: North	R-100 (Residential Med Lot)	Single-Family Dwelling	N/A
Adjacent: South	R-100 (Residential Med Lot)	Single-Family Dwelling	N/A
Nearby: East	R-100 (Residential Med Lot)	Single-Family Dwelling	N/A
Adjacent: West	R-100 (Residential Med Lot)	Single-Family Dwelling	N/A

The surrounding area is characterized as residential developments. Adjacent to the north, south, west and east of the property are residential homes zoned R-100. The Hilson subdivision is located to the southwest of the subject property while the Black Hawk Forest subdivision is located southeast of the subject property.

R-100 (Residential Medium Lot-100) was designed to provide for the protection of neighborhoods within the county where lots have a minimum area of fifteen thousand (15,000) square feet. The policies for this zoning is to provide flexibility in design on the interior of new development while protecting surrounding development, while assuring that the uses and structures authorized in the R-100 (Residential Medium Lot-100) District are those uses, and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood. The proposed use meets the intended use of the district.

The City Stonecrest Future Development Map as shown on page 77 of DeKalb County Comprehensive Plan identifies the subject property as being within Suburban Character Area. The intent of the Suburban 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. Policies for this character area is to protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density. Section 4.2.41.B.3 state no personal care home can operate within one thousand feet of another personal care home. This provision is in place to prevent institutionalizing residential homes.

The proposed SLUP is not consistent in use with the surrounding uses. Staff believes the proposed use is not suitable in view of the use and development of adjacent and nearby properties. Since there is an already established personal care home operating a single family home with three or less located next door to the subject property, approving the application would violate the Stonecrest Zoning Ordinance. Even though proposed use would be in keeping with the policies and intent of the Comprehensive Plan, however, the proposed use would not be suitable in view of its impacts on the adjacent and nearby property, therefore, the Department of Community Development recommends **DENIAL of SLUP-19-001**



PLANNING COMMISSION STAFF REPORT

RECOMMENDATION

Staff recommends **DENIAL** of **SLUP-19-001**

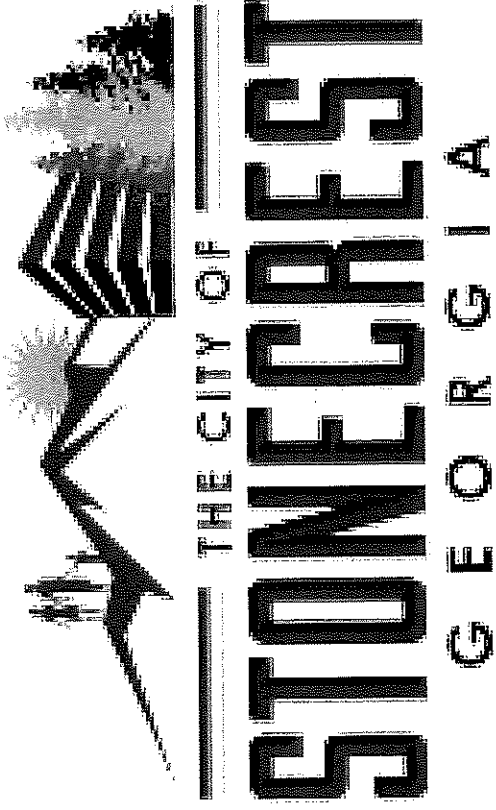
The applicant does not appear to meet all the criteria to approve this petition.

PLANNING COMMISSION RECOMMENDATION

The City of Stonecrest Planning Commission recommends *denial* of **SLUP-19-001**.



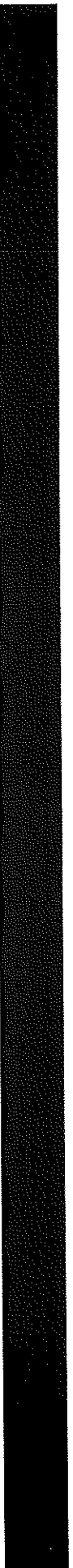
PLANNING COMMISSION POWER POINT PRESENTATION



SLUP-19-001

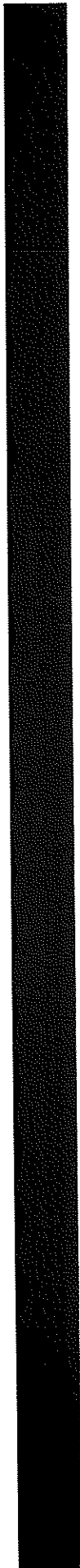
3317 Panola Road, Stonecrest GA

30038



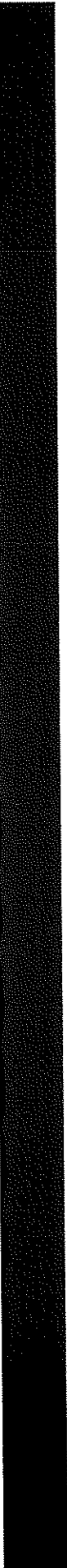
Petition Information

- APPLICANT: Dileane Matthews
- LOCATION: 3317 Panola Road
- ACREAGE: 0.5 acres
- REQUEST: The applicant is requesting a Special Land Use Permit (SLUP) to operate a child care institution four to six (4-6) residents.

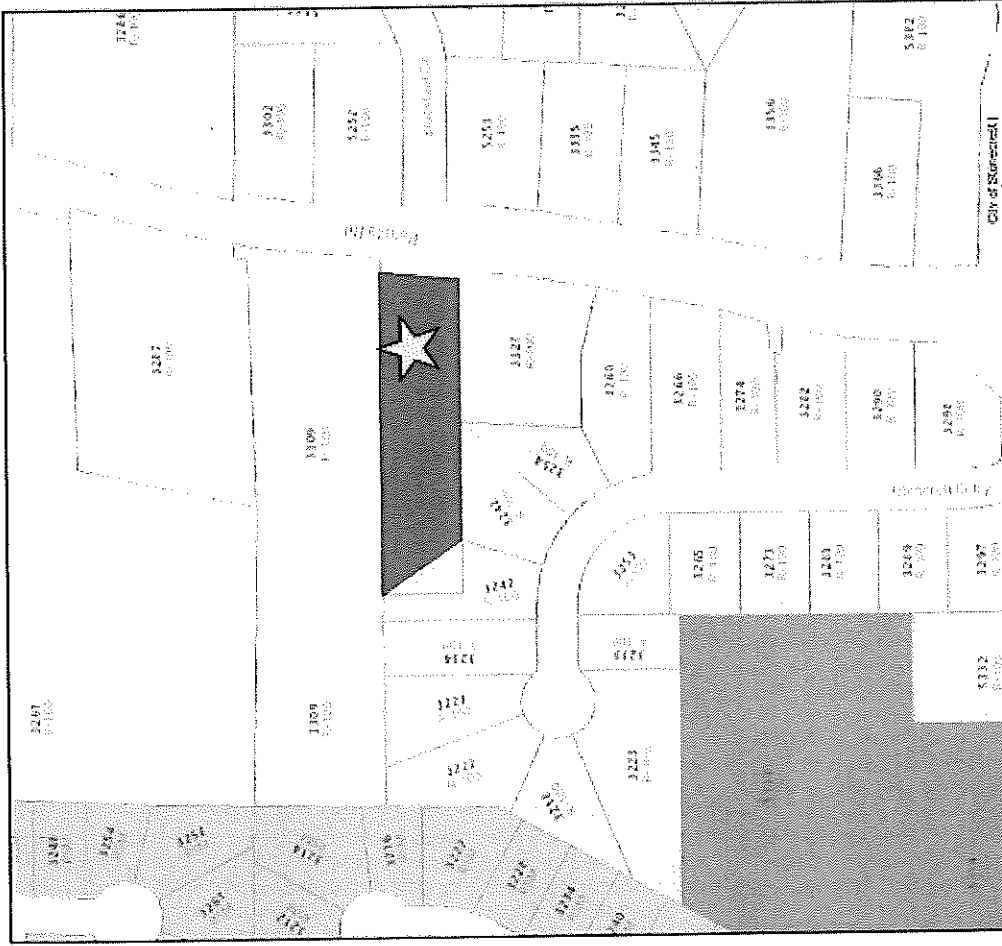


General Information

- Current zoning: R-100 (Residential Medium Lot) District
- Future Land Use Character Area: Suburban
- Policies for this area emphasize:
 - Protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density.
 - Protect single family stable neighborhoods adjacent Activity Centers from incompatible development that could alter established residential development patterns and density
- Surrounding uses: Residential.
- Surrounding zoning: R-100 (Residential Medium Lot).



Zoning Map



ZONING CASE: SLUP-19-001

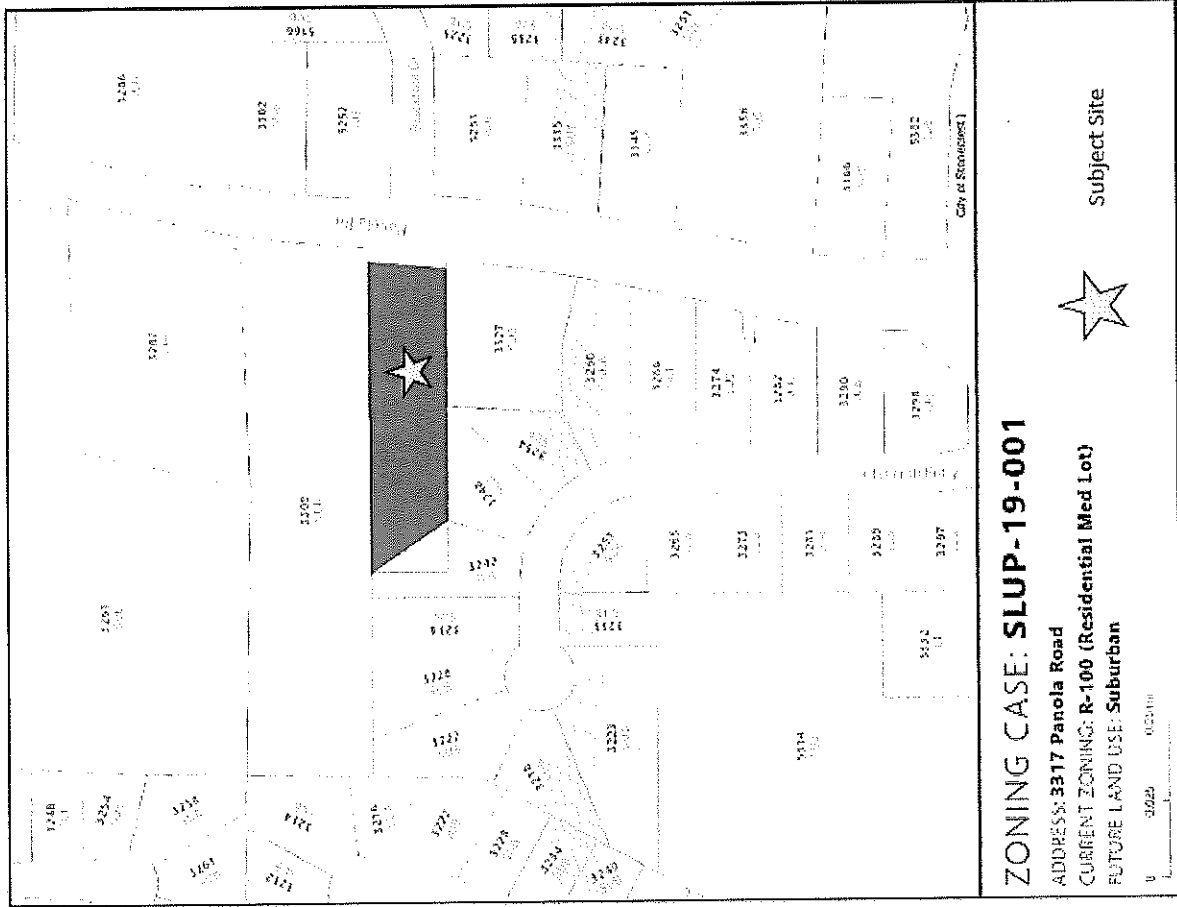
ADDRESS: 3317 Panola Road
 CURRENT ZONING: R-100 (Residential Med Lot)
 FUTURE LAND USE: Suburban



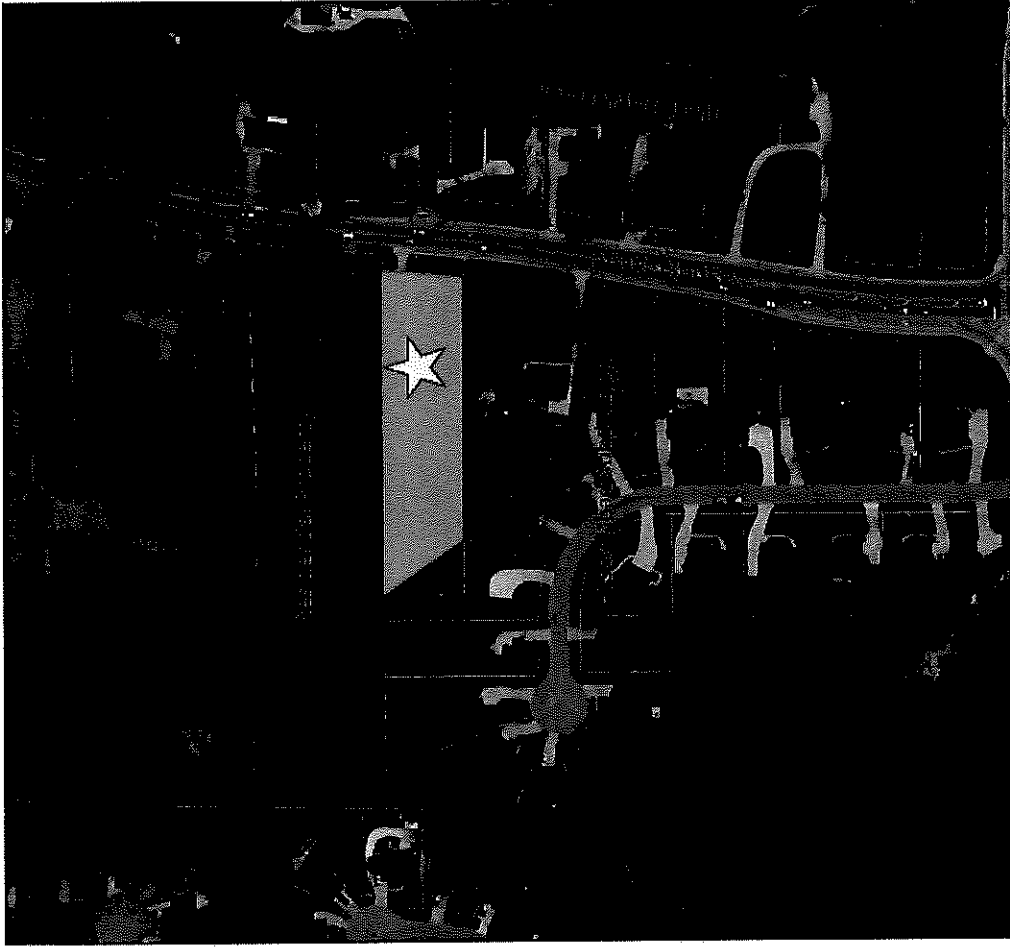
Subject Site

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FLU Map



Aerial Map



ZONING CASE: SLUP-19-001

ADDRESS: 3317 Panola Road

CURRENT ZONING: R-190 (Residential Med Lot)

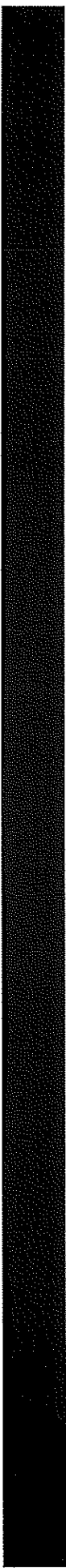
FUTURE LAND USE: Suburban

0 500' 005"



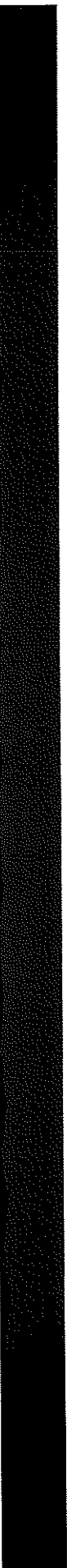
Subject Site

Front Elevation of Subject Property

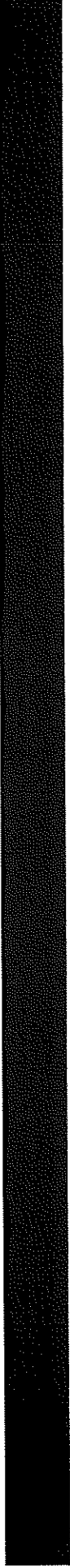


Residential Home (Black Hawk Forest Subdivision) to the South East on Panola Road

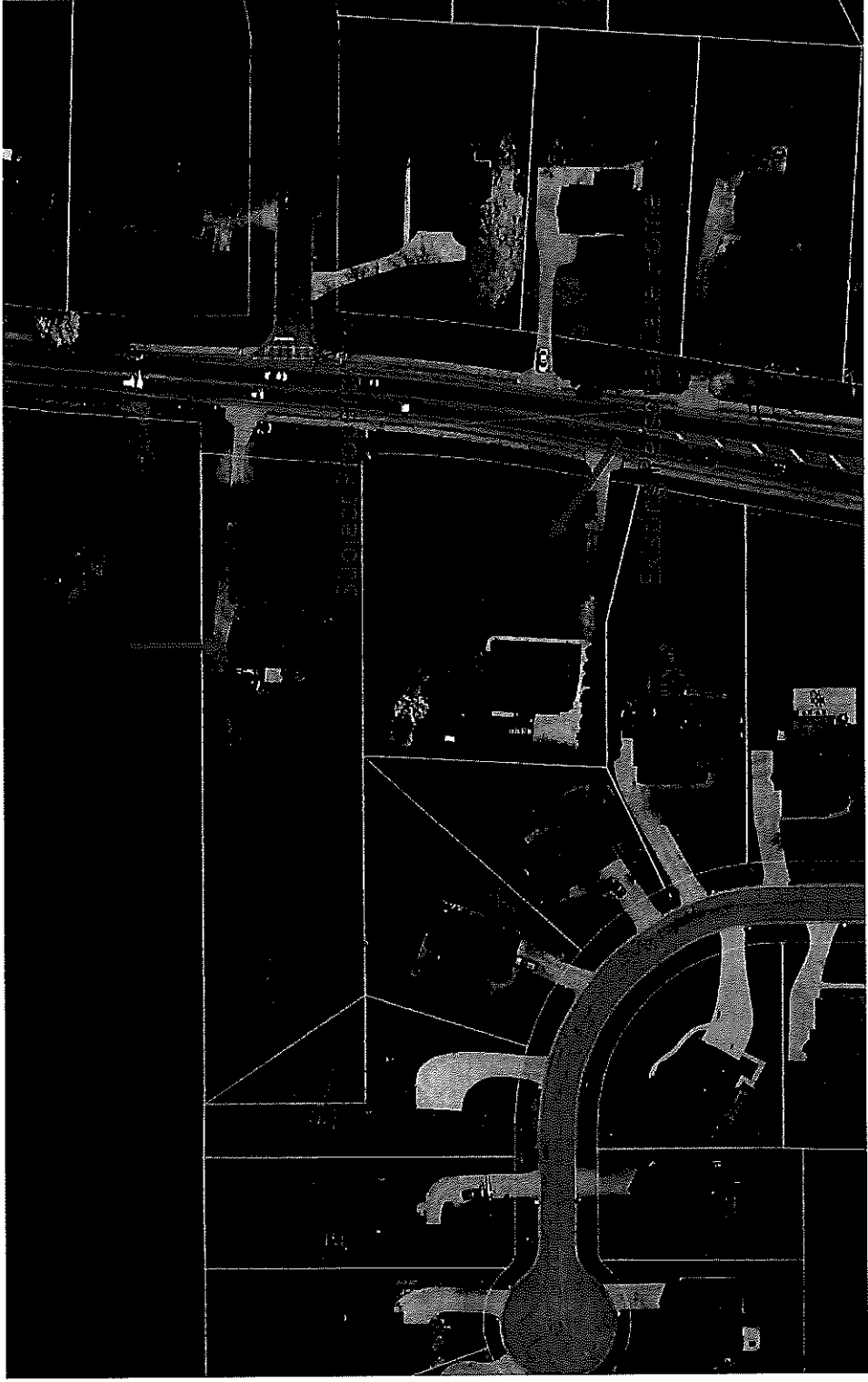
Road



Residential Home (Black Hawk Forest Subdivision) to the North East on Panola Road



Allen Conference Center to the South West on Evans Mill Road



STANDARDS OF REVIEW

Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

Adequacy of public services, public facilities, and utilities to serve the proposed use.

Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

Whether existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

STANDARDS OF REVIEW

Whether the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

Whether the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

Whether the proposed use is consistent with the policies of the comprehensive plan.

Whether the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

STANDARDS OF REVIEW

Whether there is adequate provision of refuse and service areas.

Whether the length of time for which the special land use permit is granted should be limited in duration.

Whether the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources

Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

Whether the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.

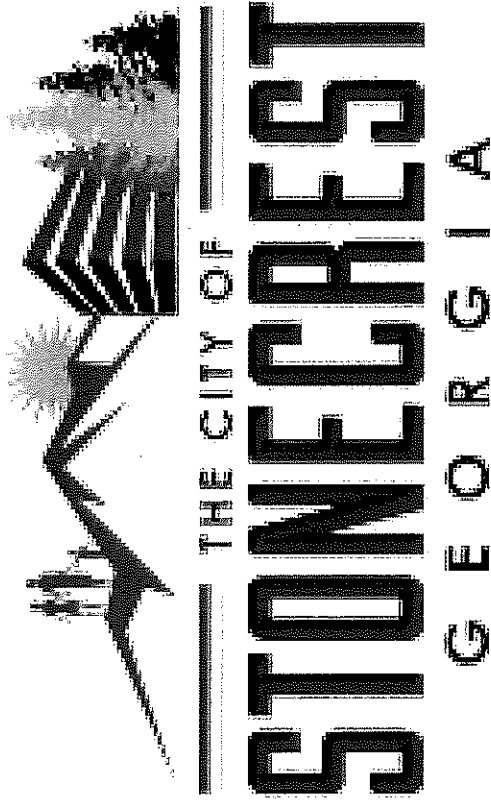
Staff Analysis

Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.

- The proposed use would be consistent with the needs of the community as a whole, however as it appears there are immediate personal care homes within the immediate area. There is a personal care home located to south of the subject property.
- Section 4.2.41.B.3 state no personal care home can operate within one thousand feet of another persona care home. This provision is in place to prevent institutionalizing residential homes.

Staff Recommendation

Even though proposed use would be in keeping with the policies and intent of the Comprehensive Plan, however, the proposed use would not be suitable in view of its impacts on the adjacent and nearby property, therefore, the Department of Community Development recommends **DENIAL of SLUP-19-001**



April 2nd 2019

**Planning Commission
Public Hearing**