

# ZONING BOARD OF APPEALS MEETING (ZBA)

Planning and Zoning Dept.

September 19, 2023



# Purpose and Intent

- The Zoning Board of Appeals hears and makes decisions regarding variance requests and appeals
- Allow the citizens of Stonecrest opportunities to review all petitions, ask questions of all applicants, and express any preliminary concerns;
- Bridge the relationships between developers, residents, and staff

# Please Keep In Mind

- Please be respectful to applicants, citizens, and staff
- Keep questions, comments, and/or concerns relevant to agenda items
  - Staff is available to answer questions for other matters after the ZBA has concluded
- Please wait to ask questions after staff has concluded presenting each petition
- Each citizen/residents will have a maximum of two (2) minutes to ask his/her questions or make statement

**V23-005**

2375 Panola Road

Battle Law P.C. on behalf of Atlanta  
Residential Investors LLC

Petitioner is seeking a Variance to reduce  
stream buffer from seventy-five (75) feet to fifty  
(50) feet.



# Background Information

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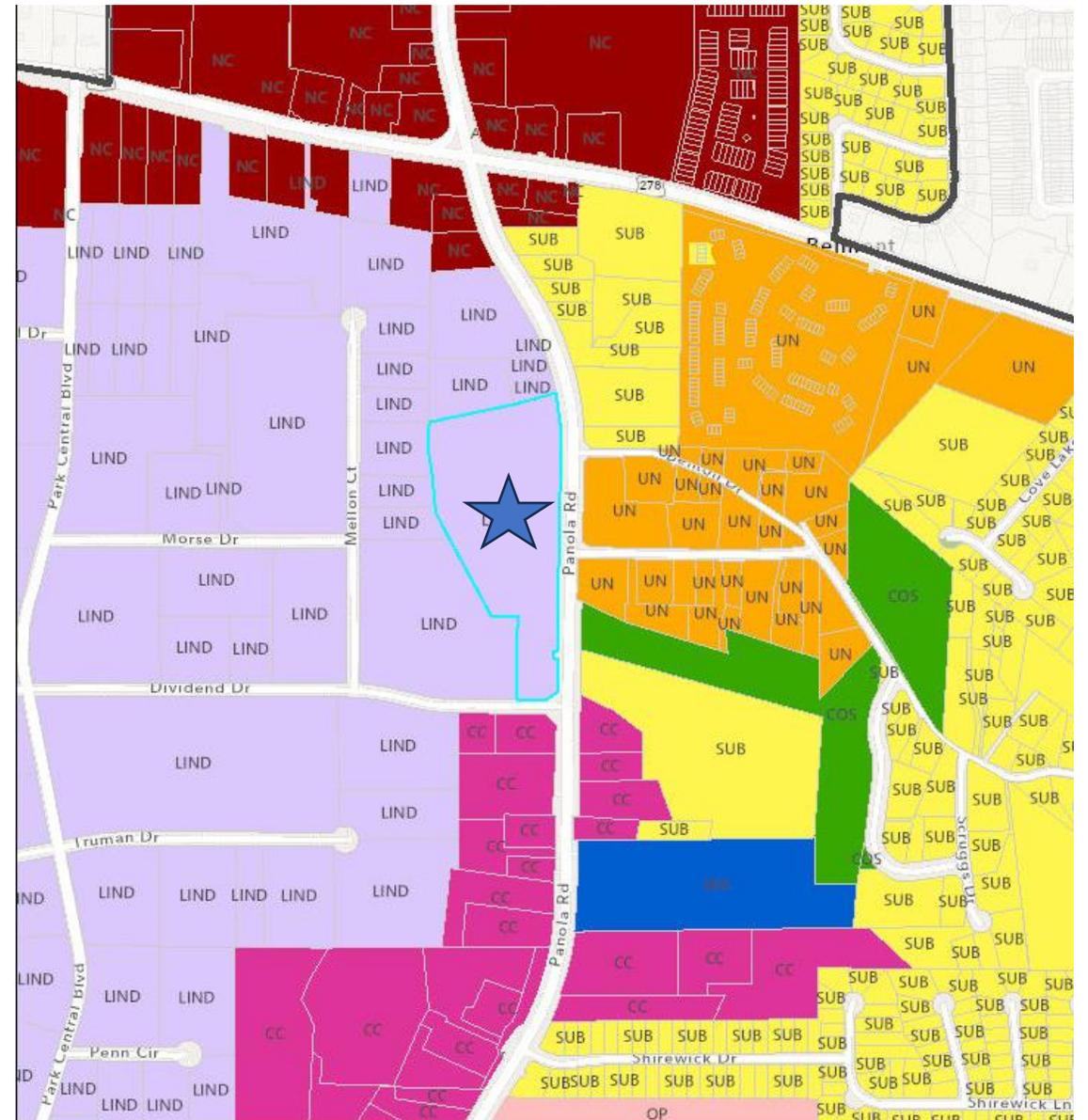
- Petitioner  
Battle Law, P.C
- Site Location  
2375 Panola Road
- Petitioner's Request  
The Applicant is seeking a stream buffer variance to reduce the required seventy-five (75) foot stream buffer to fifty (50) feet for a mixed-use development
- District 5  
District Representative: Rob Turner



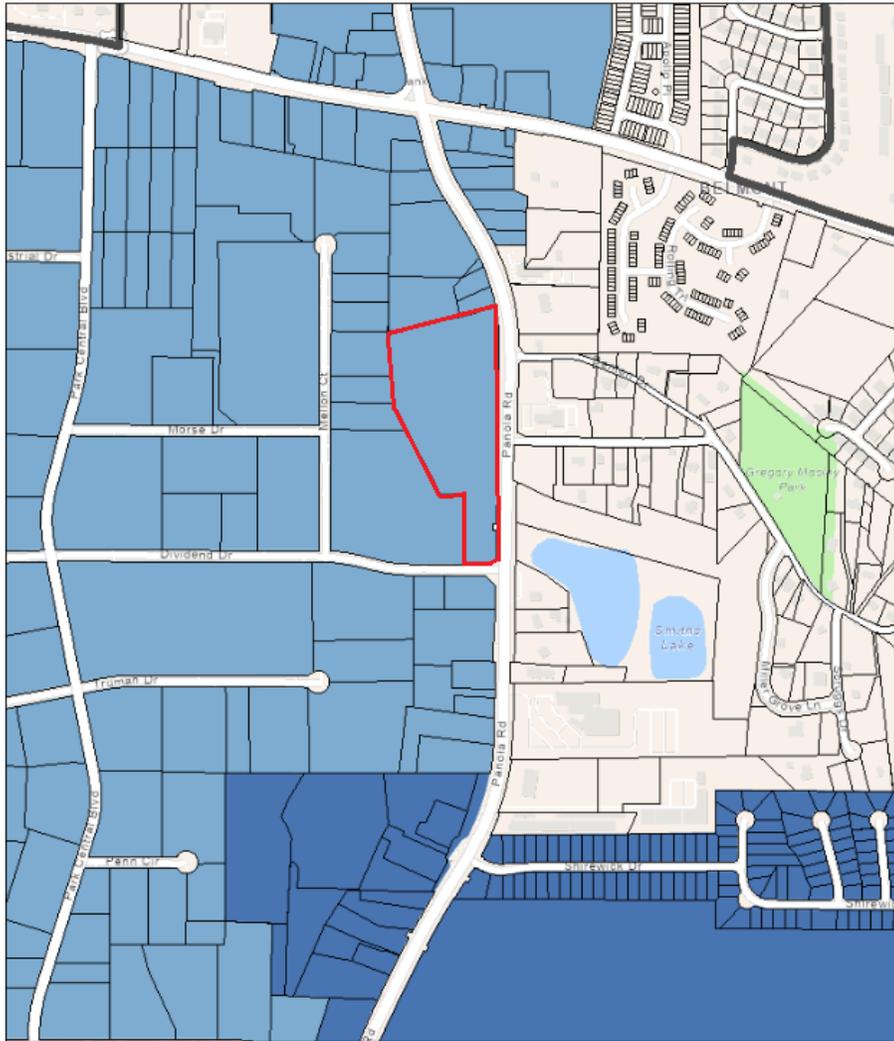
# Future Land Use/Character Area

## Light Industrial (M-LI)

The intent of the Light Industrial Character Area is to identify areas that are appropriate for industrial type uses. The location of these areas shall preserve the appeal and appearance of residential and commercial areas from the prospective intrusion of light industrial land uses. These areas consist of areas used in low intensity manufacturing, including wholesale trade, and distribution activities that do not generate excessive noise, vibration, air pollution or other nuisance characteristics.

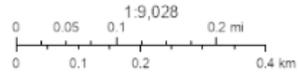


## I-20 OVERLAY DISTRICT TIER 2



September 13, 2023

- ABARIA MOUNTAIN OVERLAY DISTRICT
- I-20 OVERLAY DISTRICT TIER 1
- I-20 OVERLAY DISTRICT TIER 2
- STONECREST CVD TIER 1
- STONECREST CVD TIER 2
- STONECREST CVD TIER 3
- STONECREST CVD TIER 4
- STONECREST CVD TIER 5
- STONECREST CVD TIER 6 VIEWSHED



Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

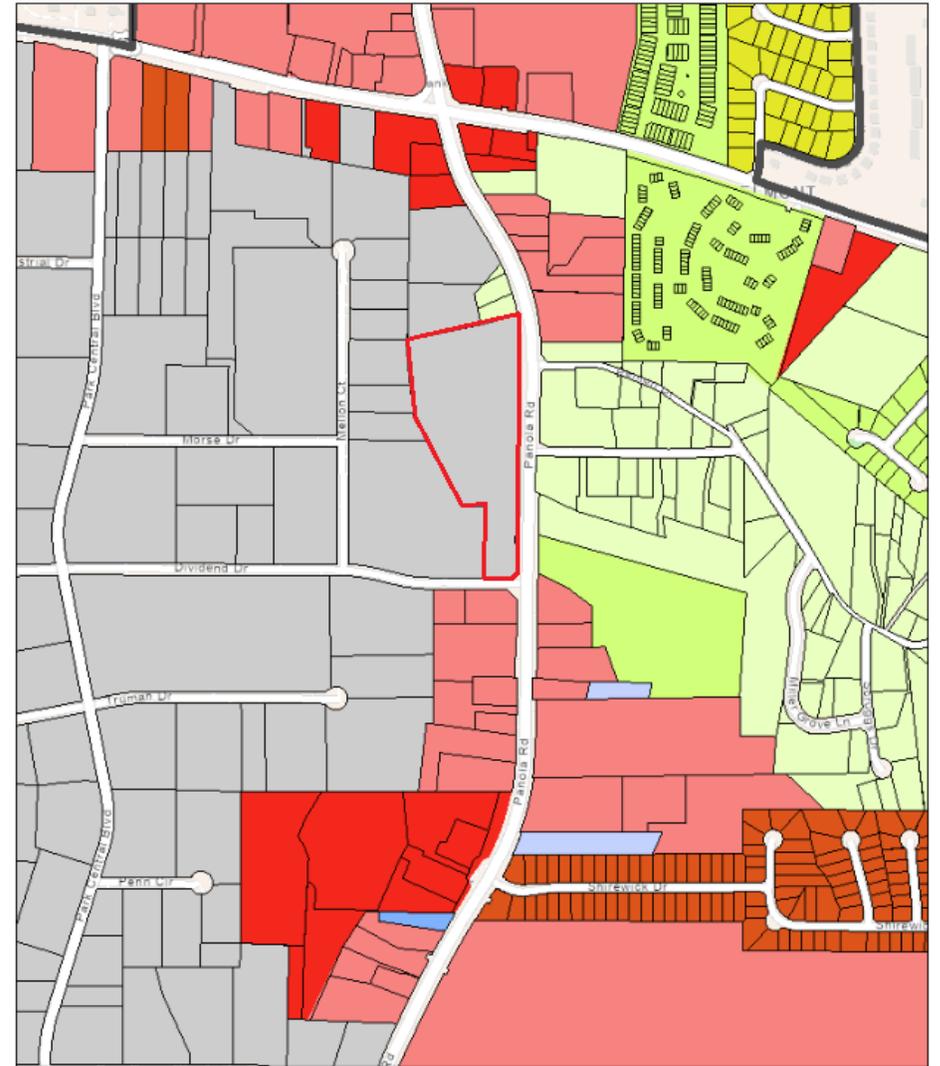
©Map, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, MET/NASA, USGS, EPA, NPS, US Census Bureau, USDA

## Zoning

Overlay District  
 ➤ I-20 Overlay District  
 TIER 2

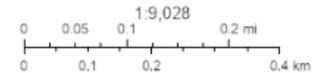
Zoning District  
 ➤ M – Light Industrial

## M - Light Industrial



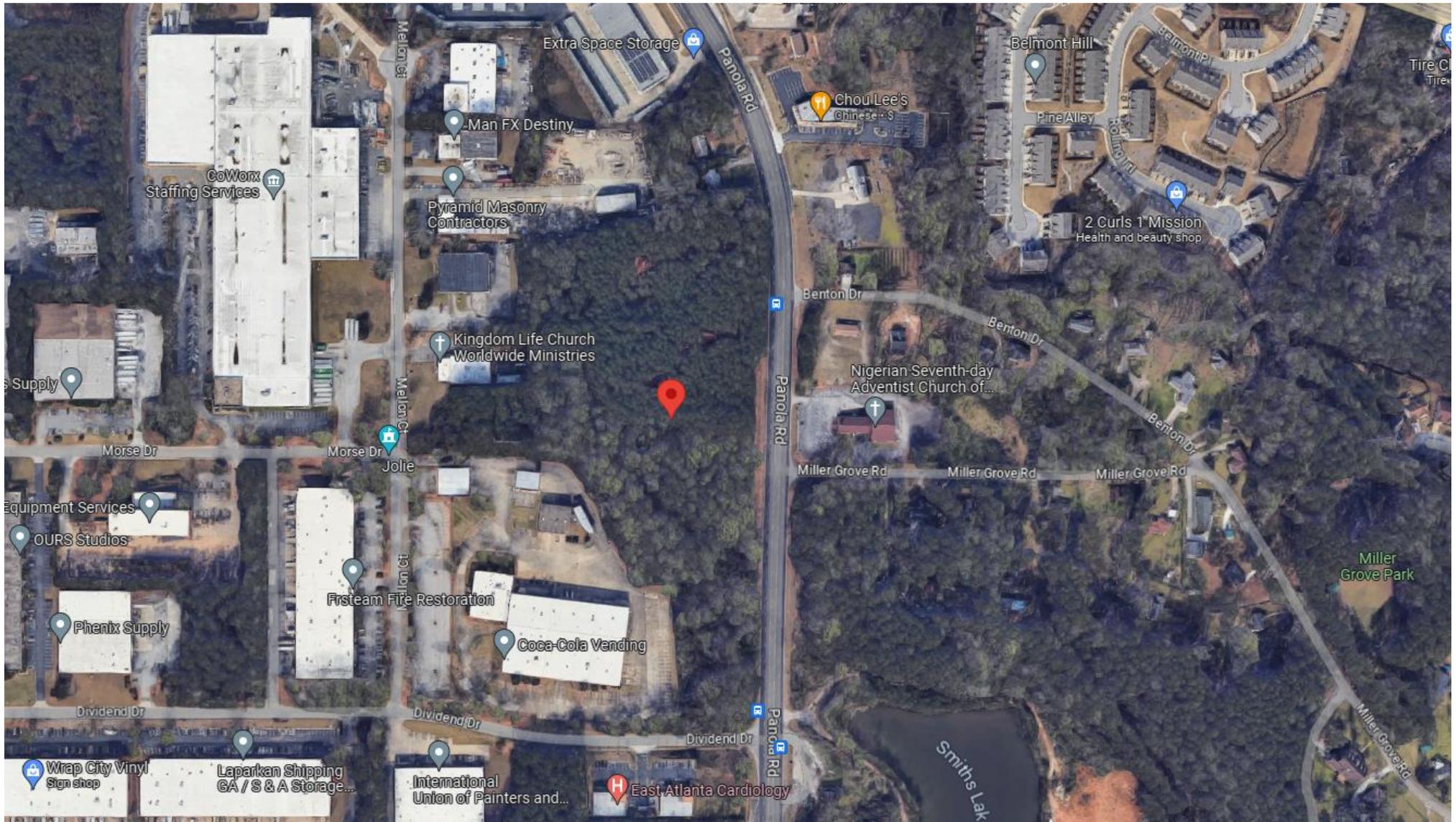
September 13, 2023

- NS - Neighborhood Shopping
- RE - Residential Estate
- R1 - Residential Single-Family
- R100 - Residential Medium Density
- R2 - Residential Medium Density
- R75 - Residential Medium Density
- O1 - Office/Institutional/Professional
- R80 - Residential Small Lot
- C1 - Office/Institutional/Professional
- RS10 - Small Lot Residential Medium Density
- M - Light Industrial
- MP1 - Medium Density Residential
- M2 - Heavy Industrial
- MP2 - Medium Density Residential
- MH1 - Medium Density High Density



Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

# Aerial Map



# Submitted Site Plan

24 HOUR EMERGENCY CONTACT: JAY MASON 817-401-2641

**SITE NOTES:**

- THE SITE CONTAINS 12.08 ACRES  
TOTAL DISTURBED AREA- TBD ACRES  
PARCEL ID: 18 040 05 001
- SITE ADDRESS: 2375 PANOLA ROAD, STONECREST, GA., 30058  
SITE ZONING: M - LIGHT INDUSTRIAL
- TOPOGRAPHY AND BOUNDARY INFORMATION TAKEN FROM SURVEY PROVIDED BY SURVEY LAND EXPRESS, INC., DATED 2-04-2022
- NO PORTION OF THE SITE IS LOCATED IN ZONE AE AS DEFINED BY FRM PANEL NUMBER 13089C0156J DATED 5/16/2013, FOR DEKALB COUNTY AND INCORPORATED AREAS.
- NO WETLANDS EXIST WITHIN 200 FT OF THE PROJECT SITE.
- TO THE BEST OF OUR KNOWLEDGE, THERE NO CEMETERIES, ARCHITECTURAL, OR ARCHEOLOGICAL LANDMARKS EXIST ON SITE. IN THE EVENT THAT THESE LANDMARKS ARE DISCOVERED DURING CONSTRUCTION, THE ENGINEER MUST BE CONTACTED IMMEDIATELY FOR REVIEW AND AMENDING THE CONSTRUCTION PLANS.
- BUILDING FOUNDATION & LAYOUT SHALL BE COORDINATED USING ARCHITECTURAL DRAWINGS. ARCHITECTURAL DRAWINGS TAKE PRECEDENCE OVER CIVIL DRAWINGS CONCERNING FOUNDATIONS AND ALIGNMENT WITH EXISTING STRUCTURES OR SURVEY.
- THE EXISTING UTILITIES SHOWN ON THE PLANS ARE SHOWN FOR THE CONTRACTOR'S CONVIENENCE. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATIONS, SIZES, MATERIALS, OR DEPTH FOR THE UTILITIES SHOWN OR THE UTILITIES WHICH MAY EXIST ON THE SITE BUT ARE NOT SHOWN. THE CONTRACTOR SHALL HAVE THE RESPONSIBILITY TO VERIFY THE LOCATION OF ALL UTILITIES SHOWN ON THE PLANS AND REPORT ANY DISCREPANCIES TO THE ENGINEER OF RECORD. THE CONTRACTOR SHALL ALSO HAVE THE RESPONSIBILITY BEFORE STARTING ANY WORK TO MAKE SUCH EXPOSURE AND PROTECT NECESSARY TO ASCERTAIN ANY SINKER LINES, WATER SUPPLY LINES, GAS LINES, ELECTRICAL LINES, CABLE LINES, TELEPHONE LINES, OR OTHER UTILITY LINE.
- UNDERGROUND UTILITIES SERVING OR CROSSING THE PREMISES MAY EXIST THAT ARE NOT SHOWN. CRESCENT VIEW ENGINEERING IS UNABLE TO CERTIFY TO THE ACCURACY OR COMPLETENESS OF THE UTILITY INFORMATION SHOWN. ALL UNDERGROUND UTILITY LOCATIONS MUST BE FIELD VERIFIED PRIOR TO ANY CONSTRUCTION ACTIVITY BY THE UTILITY PROTECTION CENTER AT 1-800-392-7411 FOR RIGHT OF WAY AREA AND BY A PRIVATE UTILITY LOCATOR FOR UTILITIES NOT LOCATED WITHIN THE RIGHT OF WAY.
- CONTRACTOR SHALL CONTACT THE UTILITY LOCATOR AS REQUIRED BY GEORGIA LAW AND HAVE ALL UTILITIES MARKED PRIOR TO ANY CONSTRUCTION ACTIVITY. CONTRACTOR WILL HAVE PRIVATE UTILITY LOCATOR LOCATE ALL UTILITIES WITHIN THE CONSTRUCTION LIMITS NOT COVERED BY THE UTILITY PROTECTION CENTER.
- THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF ANY DISCREPANCIES OR ERRORS THAT HE MAY DISCOVER IN THESE PLANS.
- CONTRACTOR TO PROVIDE ALL NECESSARY BARRICADES, GUARDS, LIGHTS, AND OTHER INSTALLATIONS REQUIRED TO PROTECT PERSONS AND PROPERTY DURING THE ENTIRE CONSTRUCTION PROCESS.
- ALL CONSTRUCTION MUST CONFORM TO THE APPROPRIATE CITY OF STONECREST, DEKALB COUNTY, AND GEORGIA STANDARDS.

**Parking Area Landscaping Requirements:**

- LANDSCAPE ISLANDS MUST BE A MINIMUM OF 250 SQUARE FEET
- NEWLY PLANTED TREES MUST BE A MINIMUM OF 2-INCH CALIPER AND 15 FEET IN HEIGHT AT PLANTING
- NEWLY PLANTED TREES MUST HAVE A 30-FOOT MINIMUM MATURE HEIGHT AND BE BROUGHT TREASANT
- TREE MUST BE PLANTED AT LEAST 30 INCHES FROM ANY BARRIER CURB
- TREE ISLANDS MUST ALSO CONTAIN GROUND COVER TO PROTECT TREE ROOTS AND PREVENT EROSION. GROUND COVER INCLUDES SHRUBS, FORTY-LORDE PINK PINK WALNUT, OR OTHER SIMILAR LANDSCAPING MATERIAL.

TOTAL SITE ACRES = 12.08 ACRES  
TOTAL DISTURBED AREA = TBD ACRES

**Parking Conformance:**

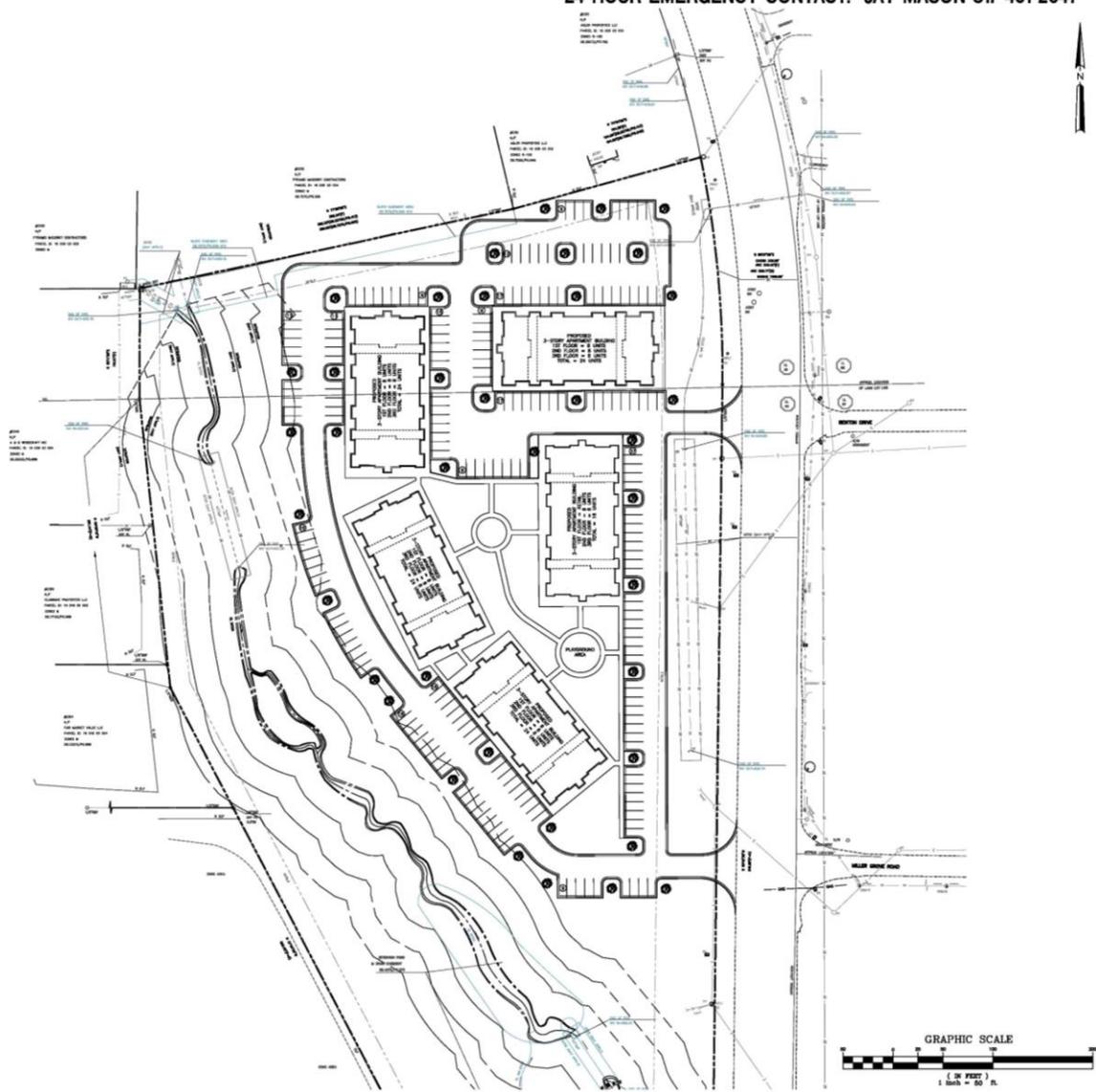
TOTAL RESIDENTIAL UNITS = 112 APARTMENTS  
REQUIRED PARKING = 115 X 112 = 128 SPACES  
TOTAL NETAL SPACE = 10653 SF  
REQUIRED PARKING = 3 PER 1000 SF = 30 SPACES  
TOTAL PARKING SPACES ON THIS PLAN = 216 (NO ADA PARKING SHOWN)

**Stream Buffer Encroachment:**

PROPOSED IMPERVIOUS AREA LOCATED IN STREAM BUFFER:  
- 25 FOOT STREAM BUFFER = 0 SF  
- 50 FOOT STREAM BUFFER = 0 SF  
- 75 FOOT STREAM BUFFER = 4,825 SF

**Open Space Calculations:**

MINIMUM OPEN SPACE REQUIREMENT = 20% OF LAND  
SITE AREA = 12.08 ACRES  
REQUIRED OPEN SPACE = 12.08 ACRES X 0.20 = 2.42 ACRES  
PROVIDED OPEN SPACE = TOTAL SITE AREA - IMPERVIOUS SURFACES  
= 12.08 ACRES - 4.07 ACRES = 8.01 ACRES OPEN SPACE (66.3% OF LAND)  
PROVIDED OPEN SPACE IS GREATER THAN REQUIRED OPEN SPACE



Prepared By:  
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**Jay Mason**  
11115 5th St  
Stonecrest, GA 30058  
PM: jason@crecentview.net

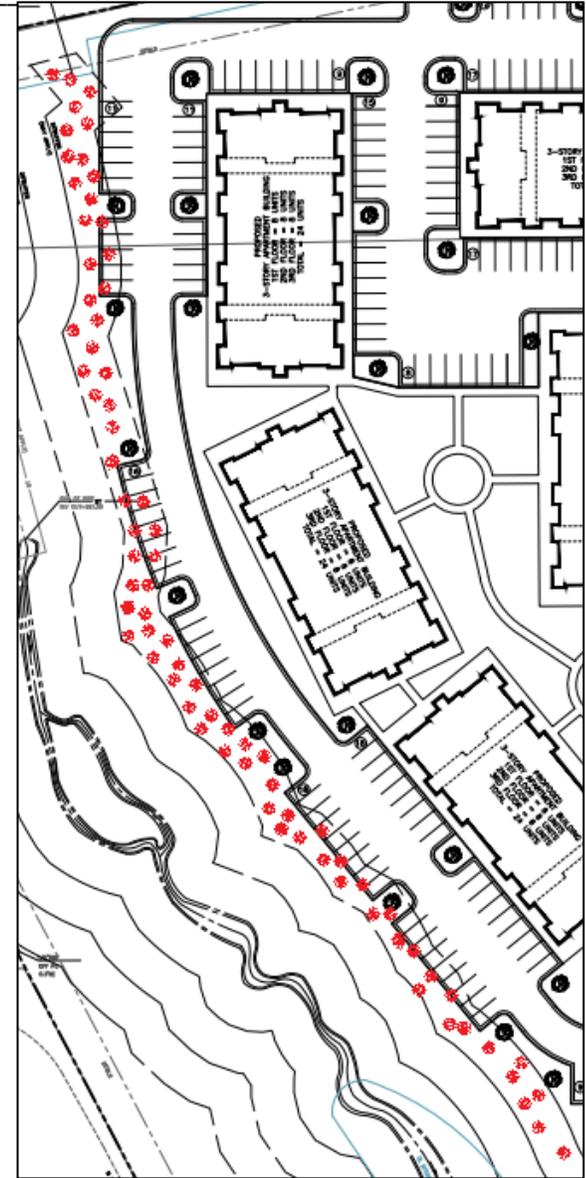
Variance Site Plan

DATE	LOG-22-23	REVISIONS
SCALE	AS SHOWN	
PROJECT	2375 PANOLA ROAD	
CITY	STONECREST	

Construction Plans For:  
**Panola Road Apartments**  
2375 Panola Road  
Land Lot 391, 392, 393, 16th District  
City of Stonecrest, DeKalb County, Georgia, 30058

COLL# 21-773

Sheet No.  
**C-1**



# Applicant's Request

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## **Petitioner's Stated Hardship**

- Unusual shape of property
- A Stream traverses the rear yard of the subject property and stream buffer requirement (75 feet) had limited the buildable area

## **Zoning Ordinance**

- Chapter 14 (Land Development) – Article 7 (Stream Buffer) – Sec. 14- 543  
(Minimum Stream Buffer Requirements)

## **Petitioner's Request**

- Variance to reduce stream buffer from seventy-five (75) feet to fifty (50) feet

# Chapter 14 (Land Development) – Article 7 (Stream Buffer) – Sec. 14-543 (Minimum Stream Buffer Requirements)

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Sec. 14-543. - Minimum stream buffer requirements.



- (a) Stream buffers are established along all perennial and intermittent streams in the City. These required stream buffers begin at the stream bank and extend 75 feet away from the stream. The buffers must remain undisturbed except as otherwise provided in [section 14-544](#).
- (b) Any new stormwater discharge crossing a stream buffer or state buffer zone must be designed to ensure that sheet flow is established through the stream buffer and to prevent channelized flow through the stream buffer.
- (c) Piping of streams is not allowed in required stream buffers unless a variance is granted.

(Ord. No. 2018-06-03, § 14-543, 6-3-2018)

# Chapter 14 (Land Development) – Article 7 (Stream Buffer) – Sec. 14-544 (Exemptions and special administrative permits.)

## Sec. 14-544. - Exemptions and special administrative permits.



- (a) *Exemptions.* The stream buffer regulations of this article do not apply to any of the following activities, provided that any activity within a state-mandated stream buffer must meet state requirements. Exemption of these activities does not constitute an exemption from any other activity proposed on a property or a requirement to obtain a building/land development permit.
- (1) Work consisting of the usual and customary repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this section. Such usual and customary repair and maintenance activities cannot create any land disturbance, and must occur within the preexisting disturbed area;
  - (2) Maintenance, including the full replacement, of existing decks, porches or similar improvements attached to a dwelling that encroach into a city stream buffer so long as the work does not increase the degree of encroachment or any nonconformity. The complete replacement of these improvements is provided for, including the replacement of stairs and all supporting beams, posts and footings subject to compliance with applicable city codes. The necessary construction of new or improved footings as required to comply with current building codes is allowable up to a maximum of 100 square feet of land disturbance;
  - (3) Construction of new decks, porches or other similar additions no more than 200 square feet in area, to existing structures without a deck, porch or similar structure, provided that such construction does not require more than 100 square feet of land disturbance and does not further encroach more than ten feet into the city stream buffer;
  - (4) Existing development and on-going land-disturbance activities including existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land-disturbance activities on such properties is subject to all applicable buffer requirements;
  - (5) Public sewer line installation in easements running parallel with the stream where necessary, except that all easements (permanent and construction) and land disturbance within a state waters' buffer must meet state requirements. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including, but not limited to, manholes, vents and valve structures. This exemption may not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses expressly identified in this section;
  - (6) Removal of unwanted ground cover (e.g., poison ivy) using hand tools as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed;
  - (7) Land development activities within a dedicated transportation right-of-way existing at the time this section takes effect or approved under the terms of this section;
  - (8) Within an easement of any utility existing at the time this section takes effect or approved under the terms of this section, land-disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including, but not limited to, manholes, vents and valve structures;
  - (9) Emergency work necessary to preserve life or property. However, when emergency work is performed, the person performing it must report such work to the Community Development Department on the next business day after commencement of the work. Within ten business days thereafter, the person must apply for a permit and perform such work within such time period as may be determined by the Director or designee to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area;
  - (10) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land-disturbance in the buffer that would otherwise be prohibited, then no other land-disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer;
  - (11) Activities to restore or enhance stream bank stability, riparian vegetation, water quality or aquatic habitat, so long as native vegetation and bioengineering techniques are used;
  - (12) The removal of dead, diseased, insect-infested, or hazardous trees (without any associated land disturbance), provided the property owner provides sufficient documentation of the condition of the trees before removal, including photographs and a report by a certified arborist; and
  - (13) Multi-use trails and related improvements that are part of a City Council-approved plan. Unless otherwise approved by the State, such encroachments must be located at least 25 feet from the banks of state waters when, after study of alternative trail alignments, the Director determines that the alignment is the most desirable alternative and that they are designed to minimize impervious surfaces and incorporate BMPs and other mitigation practices that minimize the impact of encroachments on water quality. Trail improvements that are part of a City Council-approved plan are not counted as part of a site's impervious surface area for the purposes of site development-related calculations and regulations.
- (b) *Special administrative permits.* The following activities may be approved within the stream buffers required by [section 14-543](#) by special administrative permit, pursuant to the process outlined in the Zoning Ordinance:
- (1) Stream crossings by utility lines, roads, driveways or similar transportation routes, including trails for nonmotorized transportation;
  - (2) Public water supply intake or public wastewater outfall structures;
  - (3) Land development necessary to provide access to a property;
  - (4) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks;
  - (5) Stormwater outfalls to the stream, by pipe or channel, necessary to protect the buffer from erosion caused by high-flow velocities due to steep slopes;
  - (6) Exclusive of the exemptions in subsections(a)(2) and (3) of this section, minor land-disturbing activities totaling no more than 200 square feet in area and located more than 25 feet from the stream, for the construction of decks, porches, or other additions to existing structures, and accessory structures where riparian vegetation is restored or replaced in any disturbed areas; and
  - (7) Construction and land disturbance that results in the reduction or removal of impervious surfaces.

# Chapter 27 (Zoning Ordinance) – Article 7 (Administration) – Sec. 7.5.3 (Applications for variances; and criteria to be used by the zoning board of appeals in deciding applications for variances.) A (1)

Sec. 7.5.3. - Applications for variances; and criteria to be used by the zoning board of appeals in deciding applications for variances.



The zoning board of appeals shall hear and decide applications for variances from the strict application of the regulations of this chapter and [chapter 21](#) where the strict application of any regulation enacted under said chapters would result in exceptional and undue hardship upon the owner of such property. In determining whether or not to grant a variance, the board shall apply the criteria specified in this section to the facts of each case. The board may attach reasonable conditions to any approved variance in accordance with [section 7.3.9](#). Once imposed, conditions shall become an integral part of the approved variance and shall be enforced as such. No changes to an approved condition attached to a variance shall be authorized except by re-application to the zoning board of appeals in full compliance with the applicable provisions of this division. No relief may be granted or action taken under the terms of this division unless such relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this chapter and the comprehensive plan. The zoning board of appeals shall apply the following criteria to the types of applications specified below as follows:

- A. Variances from the provisions or requirements of this chapter other than variances described in [section 7.5.4](#) shall be authorized only upon making all of the following findings:
  - 1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.

# Variance considerations & Staff Analysis

(Zoning ordinance Sec 7.5.3.A)

<b>Variance Consideration</b>	<b>Staff Analysis</b>
<p>1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district;</p>	<p>Subject property has an irregular lot shape and narrows in the southern portion. Natural structure of subject property (with a stream &amp; rough topography) itself reduced the buildable area. Current status of the property is an undisturbed lot (vacant). The magnitude of proposed development should not exceed the minimum requirements that impact on environmental sensitivity and sustainability.</p>
<p>2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located;</p>	<p>The requested variance goes beyond the minimum necessary requirements to afford relief.</p>
<p>3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located;</p>	<p>The grant of the stream buffer variance will impact on the water quality of the subject stream and reduce the positive impact of vegetated buffers near streams such as filtration of storm water runoff, water in streams, and disallow wildlife a critical corridor for moving throughout an ecosystem.</p>
<p>4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship;</p>	<p>The hardship of the development is basically not having sufficient buildable areas to accommodate requirements (such as parking) for the proposed project magnitude or scale of the development. Therefore, the redesign of the project could avoid the hardship.</p>
<p>5. The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.</p>	<p>The proposed variance does not comply with the spirit and purpose of this chapter and current ordinance.</p>

# Staff Recommendation

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Based on the findings and conclusions, it appears the requesting stream buffer variance does not comply with the city of Stonecrest ordinance chapter 27; Sec 7.5.3 (A) (1) and Chapter 14; Article VII; Sec. 14-544. Therefore, staff recommends **Denial** of V23-005.

Questions? Comments!





THE CITY OF

**STONECREST**

GEORGIA