

3266 HAYDEN QUARRY RD



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- Letter of Intent
- Site Plan
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- Campaign Disclosure Statement (5)
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- Elevations

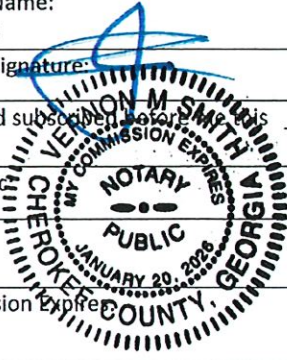


Rezoning Application

Owner Information	Owner's Name: Thomas W Poole Jr., Chad D Johnson, Patricia C Johnson		
	Owner's Address: 736 Smyrna Road Conyers, GA 30094, 218 Highlands Drive Woodstock, GA 30188-6081		
	Phone:	Fax:	Email:
	Property Address: 3266 Hayden Quarry Road, 7407 Hayden Quarry Road		Parcel Size:
	Parcel ID: 16 182 03 001, 16 182 02 003		
	Current Zoning Classification: R-100 - Residential Med Lot		
	Requested Zoning Classification: MR-1 - Med Density Residential		
	Name: Dossey, LLC c/o Battle Law, P.C.		
	Address: 3562 Habersham at Northlake Building J, Suite 100 Tucker, GA 30084		
	Phone: 404-601-7616		Fax: 404-745-0045
Cell: 404-601-7616		Email: mlb@battlelawpc.com	
Property Information	Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements? <div style="text-align: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</div>		
	1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties?		
	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?		
Questionnaire			



Affidavit	<p>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.</p>		
	<p>Applicant's Name: Dossey, LLC</p>		
Notary	<p>Applicant's Signature: </p>	<p>Date: <u>5/16/22</u></p>	
	<p>Sworn to and subscribed before me this <u>16TH</u> Day of <u>MAY</u> 20 <u>22</u></p>		
	<p>Notary Public</p>		
	<p>Signature: </p>		
	<p>My Commission Expires</p>		
Fee	<p><input type="checkbox"/> Application Fee <input type="checkbox"/> Sign Fee <input type="checkbox"/> Legal Fee</p>		
	<p>Fee: \$</p>	<p>Payment: <input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> CC</p>	<p>Date:</p>
	<p><input type="checkbox"/> Approved <input type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied</p>		<p>Date:</p>



***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)	Chad D Johnson		Date: <u>5-16-22</u>
	Signature:		
	Address: 218 Highlands Drive	City, State: Woodstock, GA	Zip: 30188-6081
	Phone: <u>678-207-9296</u>		
	Sworn to and subscribed before me this <u>16</u> day of <u>MAY</u> , 20 <u>22</u>		
	Notary Public:		
Property Owner (If Applicable)	Patricia C Johnson		Date: <u>5-16-22</u>
	Signature:		
	Address: 218 Highlands Drive	City, State: Woodstock, GA	Zip: 30188-6081
	Phone: <u>678-908-7006</u>		
	Sworn to and subscribed before me this <u>16</u> day of <u>MAY</u> , 20 <u>22</u>		
	Notary Public:		
Property Owner (If Applicable)	Signature:		Date:
	Address:	City, State:	Zip:
	Phone:		
	Sworn to and subscribed before me this _____ day of _____, 20 _____		
	Notary Public:		



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)	Thomas W Poole Jr. Signature: <i>Thomas W Poole Jr.</i>		Date: <i>May 6 22</i>
	Address: 7730 Highway 53 West	City, State: Jasper, GA	Zip: 30143
	Phone: <i>678-577-9157</i>		
	Sworn to and subscribed before me this <i>06</i> day of <i>May</i> , 20 <i>22</i>		
Property Owner (If Applicable)	Notary Public: <i>Madelon Marie Inman</i>		
			
	Signature:	Date: <i>05/06/23</i>	
	Address: <i>1905 Hwy 53</i>	City, State: <i>Jasper, GA 30143</i>	Zip: <i>30143</i>
Property Owner (If Applicable)	Phone: <i>706-253-1616</i>		
	Sworn to and subscribed before me this _____ day of _____, 20_____		
	Notary Public:		
	Signature:		Date:
Property Owner (If Applicable)	Address:		City, State:
	Phone:		Zip:
	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	Dossey, LLC Signature: JEFF SMITH, MANAGER		Date: 5/16/22
	Address: 6234 Old Highway 5, Suite 105-260,		City, State: Woodstock, GA Zip: 30188
	Phone: 770-938-9000		
	Sworn to and subscribed before me this _____ day of MAY , 20 22		
Attorney / Agent	Notary Public:		
	Battle Law, P.C. Signature: _____		Date: _____
	Address: 3562 Habersham at Northlake Building J, Suite 100		City, State: Tucker, GA Zip: 30084
	Phone: 404-601-7616		
Sworn to and subscribed before me this _____ day of _____, 20____			
Notary Public: _____			



Campaign Disclosure Statement

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

Yes No

Applicant / Owner	Chad D Johnson Signature: <i>[Signature]</i>
	Address: 218 Highlands Drive Woodstock, GA 30188-6081
	Date: <i>5-18-22</i>

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

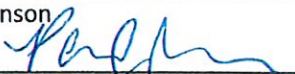
Date	Government Official	Official Position	Description	Amount



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

Applicant / Owner	Patricia C Johnson Signature: 
	Address: 218 Highlands Drive Woodstock, GA 30188-6081
	Date: 5-16-22

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

Date	Government Official	Official Position	Description	Amount



Campaign Disclosure Statement

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

Yes No

Applicant / Owner	Thomas W Poole Jr.
	Signature: <i>Thomas W Poole Jr</i>
	Address: 7730 Highway 53 West, Jasper, GA 30143
	Date: <i>May 6 22</i>

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

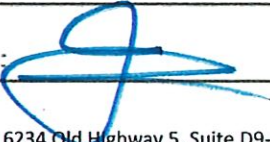
Date	Government Official	Official Position	Description	Amount



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

Applicant / Owner	Dossey, LLC
	Signature: 
	Address: 6234 Old Highway 5, Suite D9-250, Woodstock, GA 30188
	Date:

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

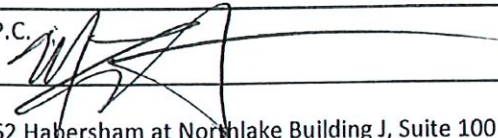
Date	Government Official	Official Position	Description	Amount



Campaign Disclosure Statement

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

Yes No

Applicant / Owner	Battle Law, P.C. Signature: 
	Address: 3562 Habersham at Northlake Building J, Suite 100 Tucker, GA 30084
	Date: March 1, 2022

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

Date	Government Official	Official Position	Description	Amount
10/21	Tammy Briones	Councilmember	Campaign Contribution	\$ 250
10/21	Jazzmin Cobble	Councilmember	Campaign Contribution	\$ 250



RIDGE PLANNING AND ENGINEERING®
6234 OLD HIGHWAY 5, SUITE D9-250 - WOODSTOCK, GA 30188

Hayden Quarry Road Townhomes

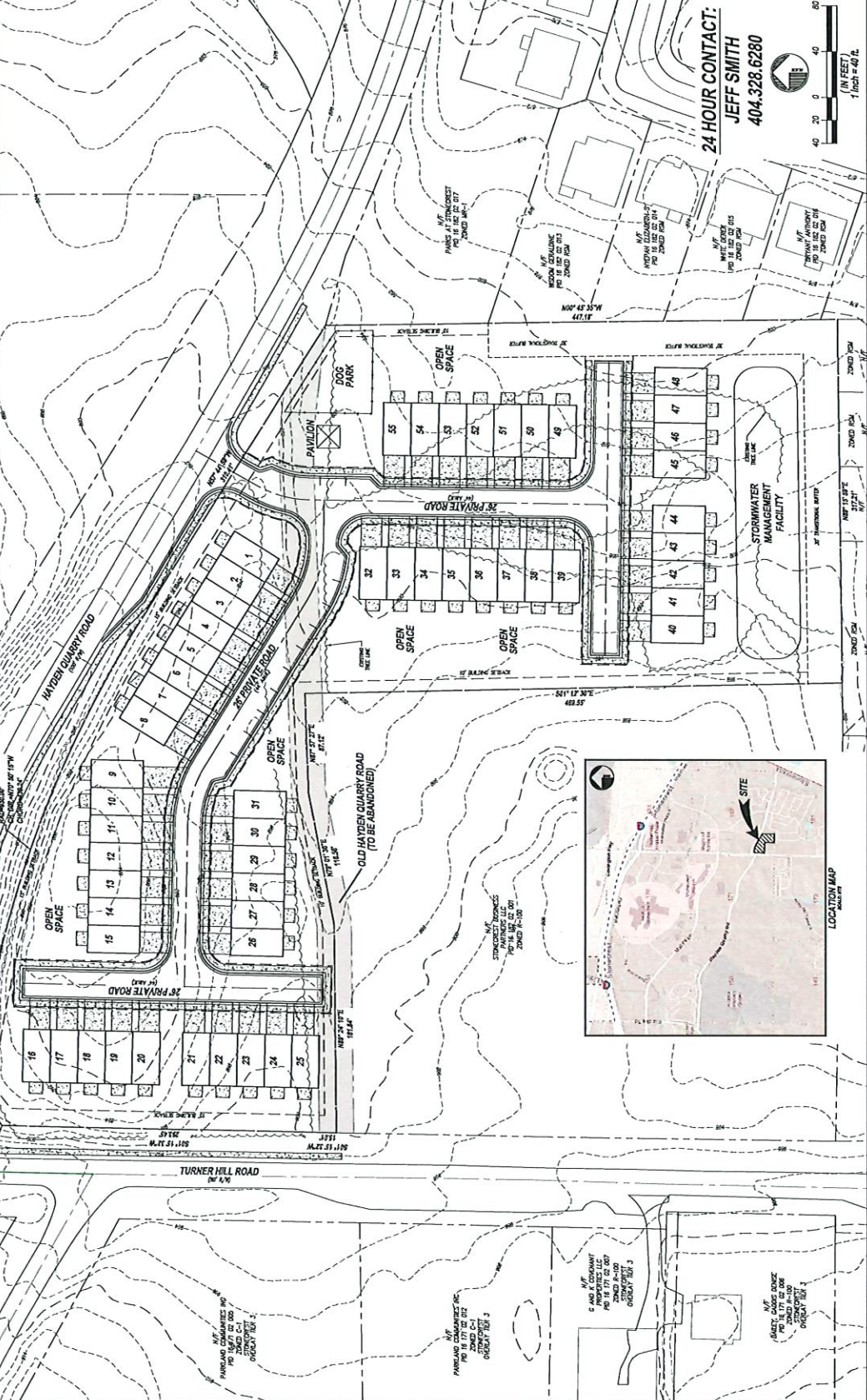
Trip Generation Report

Land Use (ITE Code)	Intensity	Daily	AM Peak			PM Peak		
		Total	In	Out	Total	In	Out	Total
Townhouse (230)	55 Units	318	6	19	25	20	10	29



DEVELOPMENT SUMMARY

NO.	DESCRIPTION	AMOUNT	UNIT
1	TOTAL ZONING	12.50	ACRES
2	TOTAL ZONING	12.50	ACRES
3	OPEN SPACE	2.50	ACRES
4	DRIVE PAVEMENT	1.00	THOUSAND LINEAL FEET
5	WATER	100,000	GALLONS
6	SEWER	100,000	GALLONS
7	LANDSCAPING	100,000	GALLONS
8	PAVING	100,000	GALLONS
9	CONCRETE	100,000	GALLONS
10	STEEL	100,000	GALLONS
11	WOOD	100,000	GALLONS
12	ASPHALT	100,000	GALLONS
13	GRAVEL	100,000	GALLONS
14	BRICK	100,000	GALLONS
15	GLASS	100,000	GALLONS
16	OTHER	100,000	GALLONS
17	TOTAL	100,000	GALLONS



LEGAL DESCRIPTION – HAYDEN QUARRY ROAD TOWNHOMES

Commence at the point of beginning N 1341583.8814, E 2320240.1438; thence a Bearing of S 01°15'32" W and Distance of 293.45'; thence a Bearing of S 01°15'32" W and Distance of 15.01'; thence a Bearing of N 89°24'10" E and Distance of 181.84'; thence a Bearing of N 79°01'36" E and Distance of 116.56'; thence a Bearing of N 87°57'27" E and Distance of 87.12'; thence a Bearing of S 01°12'30" E and Distance of 469.55'; thence a Bearing of N 89°15'59" E and Distance of 317.21'; thence a Bearing of N 00°45'35" W and Distance of 447.18'; thence a Bearing of N 57°44'59" W and Distance of 310.41' to a curve of radius 950.000' and a central angle of 26°10'30.9"; thence along the arc of the said curve of curve length 434.00'; said curve having a chord bearing and length of N 70°50'15" W and 430.24'; thence a Bearing of S 52°23'01" W and Distance of 36.74' to the point of beginning.

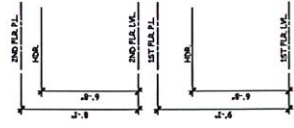
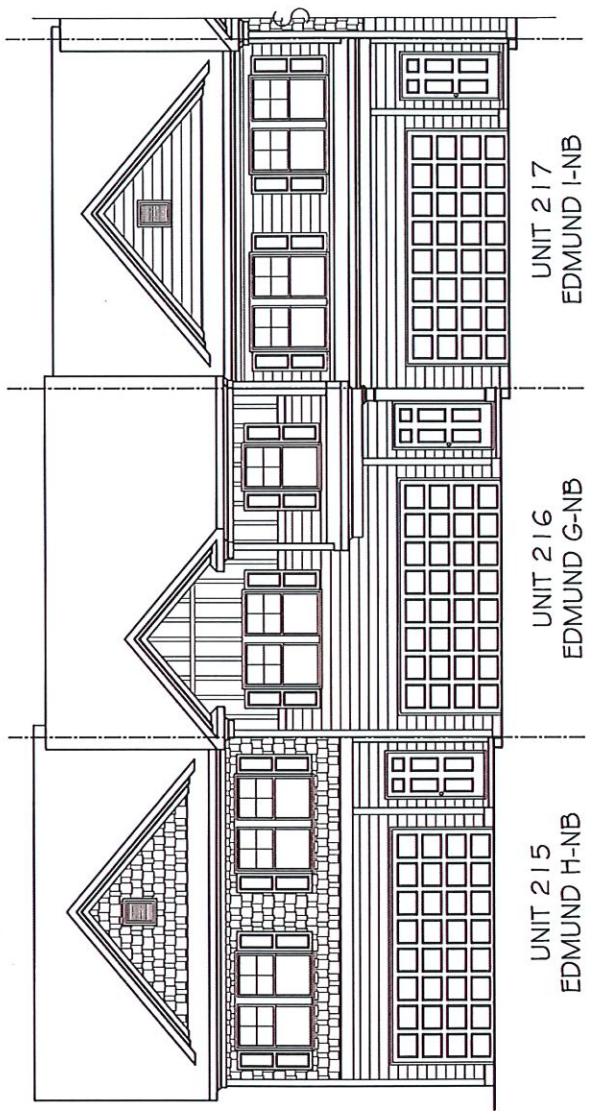
ROCKHAVEN HOMES
 4062 PEACHTREE ROAD NE, SUITE D #277
 ATLANTA, GA 30319

CAMBRIDGE TOWNHOMES
 UNITS 215-217 FRONT ELEVATION
 BUILDING LAYOUT

American Gables
 HOME DESIGN, INC.
 3000 Johnson Ferry Road • Suite 205
 Marietta, GA 30062 678-919-7117
 www.AmericanGables.com

DRAWN BY: DAC
 DATE: 10/15/21
 REVISIONS:
 W/16/21-DAC
 09/30/22-DAC

SHEET
A1.1



1 FRONT ELEVATION
 ALL SCALE: 1/8" = 1'-0"

RELEASED FOR CONSTRUCTION

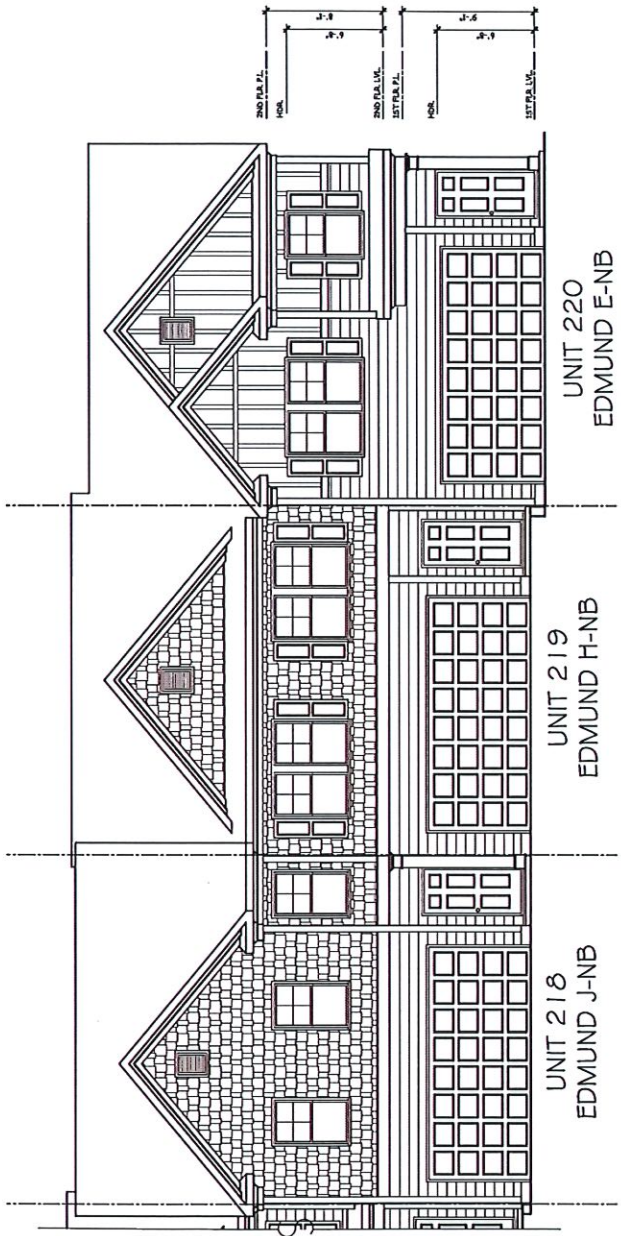
ROCKHAVEN HOMES
 4062 PEACHTREE ROAD NE, SUITE D # 217
 ATLANTA, GA 30319

CAMBRIDGE TOWNHOMES
 UNITS 218-220 FRONT ELEVATION
 BUILDING LAYOUT

American Cadles
 HOME DESIGN & INC
 3000 Johnson Ferry Road • Suite 206
 Marietta, GA 30062 678-919-7117
 www.AmericanCadles.com

DRAWN BY: DAC
 DATE: 10/15/21
 REVISIONS:
 11/16/21-DAC
 02/20/22-DAC

SHEET
A1.2



1 FRONT ELEVATION
 A1.2 SCALE: 1/8" = 1'-0"

RELEASED FOR CONSTRUCTION





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STATEMENT OF INTENT

and

Other Material Required by the
City of Stonecrest Zoning Ordinance
For
A Rezoning from R-100 to MR-1

of

Dossey, LLC.
c/o Battle Law, P.C.

for

+/-6.9 Acres of Land
Being 3266 and 7407 Hayden Quarry Road
Stonecrest, Georgia and
Parcel Nos. 16 182 03 001 and 16 182 02 003

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
Habersham at Northlake, Building J, Suite 100
Tucker, Georgia 300384
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com



Battle Law

I. LETTER OF INTENT

Dossey, LLC. (the “Applicant”) is seeking to develop on +/- 6.9 acres of land being Tax Parcel Nos. 16 182 03 001 and 16 182 02 003 having frontage on 3266 and 7407 Hayden Quarry Road (the “Subject Property”) with fifty-five (55) single-family attached townhomes to be owned fee simple. The Applicant is seeking a rezoning of the Subject Property from R-100 to MR-1.

This document serves as a statement of intent, analysis of the criteria under the City of Stonecrest Zoning Ordinance, environmental site analysis, and contains notice of constitutional allegations as a reservation of the Applicant’s rights.

II. STONECRST REZONING CRITERIA

A. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties?

The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The zoning proposal will allow for fifty-five (55) single-family attached townhomes to be owned fee simple to be built. This residential use is a useful transition from rental apartment living to ownership of a single-family detached home. The surrounding properties are developed with apartments, single-family detached homes, and a learning center. However, the Subject Property is very near the Mall at Stonecrest and the surrounding shops. This development would bolster the businesses by providing long-term home owners that can easily access and support the various shops and restaurants. Therefore, the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties.

B. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned?

The affected property of the zoning proposal does not have a reasonable economic use as currently zoned. The Subject Property is currently zoned R-100, which permits for single-family detached homes. Given the current state of the market, this use is not financially viable on this land. The cost associated with building single-family detached homes that meet the R-100 standards would simply outweigh any economic gain. Therefore, the affected property of the zoning proposal does not have a reasonable economic use as currently zoned.

C. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The only properties that will be affected are those that once used Old Hayden Quarry Road for access. However, Old Hayden Quarry Road has been blocked off from use and kept in



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a state of disrepair for quite some time. The Applicant is also submitting a right-of-way abandonment application along with this rezoning application to formally close Old Hayden Quarry Road. The properties that once used it are vacant, so no property owner will be affected by this request.

The property abutting the Subject Property to the Southwest will also not be adversely affected by this zoning proposal. A substantial, thirty (30) foot buffer will be maintained at the portions of the Subject Property that abut those properties. This buffer will ensure that the new development will not adversely affect the existing single-family detached homes.

Therefore, the zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property.

D. 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?

There are other existing or changing conditions affecting the existing use or usability of the development of the property which give supporting grounds for approval of the zoning proposal. Hayden Quarry Road currently is not aligned. The City is working to realign the road and, thereby, fixing the intersection of Hayden Quarry Road and Turner Hill Road. This zoning proposal can include the right of way dedication needed to enhance the roads to help the City achieve its goal. Therefore, there are existing or changing conditions affecting the existing use or usability of the development of the property which give supporting grounds for approval of the zoning proposal.

E. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources?

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

F. 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?

The zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. According to the trip generation report prepared for this zoning proposal by Ridge Planning and Engineering, the zoning proposal will add a total of 318 total trips over a twenty-four (24) hour period with twenty-five of those trips taking place during the morning peak travel time and twenty-nine (29) taking place during the evening peak travel time. The rest will take place outside of the peak travel hours. Therefore, the zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

III. CONCLUSION



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For the foregoing reasons, the Applicant hereby requests that the application for a rezoning from R-100 to MR-1. The Applicant welcomes any questions and feedback from the planning staff.

IV. ENVIRONMENTAL SITE ANALYSIS

A. Conformance to the Comprehensive Plan:

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

Dossey, LLC. (the "Applicant") is seeking to develop on +/- 6.9 acres of land being Tax Parcel Nos. 16 182 03 001 and 16 182 02 003 having frontage on 3266 and 7407 Hayden Quarry Road (the "Subject Property") with fifty-five (55) single-family attached townhomes to be owned fee simple. The Applicant is seeking a rezoning of the Subject Property from R-100 to MR-1.

The Subject Property is currently a wooded, vacant property with no major environmental features.

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

The surrounding properties are developed with apartments, single-family detached homes, and a learning center. Some of the surrounding parcels are vacant.

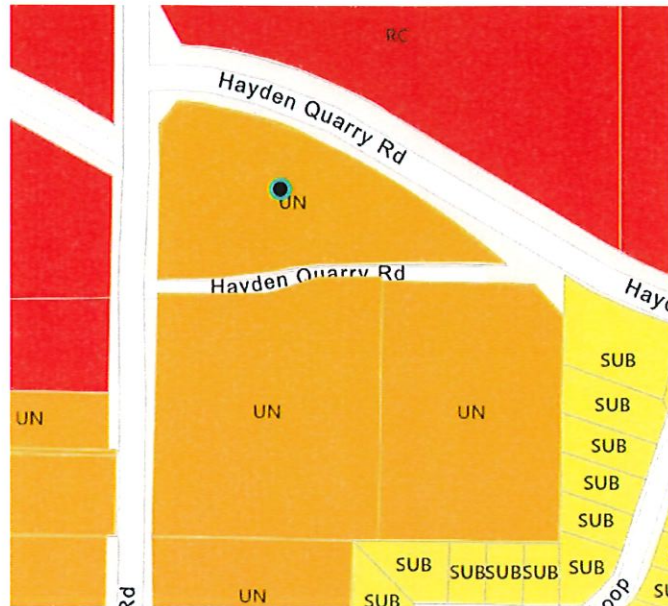
c. Describe how the project conforms to the Comprehensive Land Use Plan.

The Subject Property has a future land use designation of Urban Neighborhood and is currently zoned R-100. Thus, the current zoning designation does not conform to the future land use. The zoning proposal requests MR-1, which is in line with the future land use designation. Additionally, according to the Comprehensive Land Use Plan, "townhomes" are a specifically permitted use in the Urban Neighborhood land use designation. Thus, the zoning proposal conforms to the Comprehensive Land Use Plan.

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



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

The proposed project is right in line with the suggestions of the Comprehensive Plan and its policies. The Comprehensive Plan contemplates townhomes in the UN land use designation, which is exactly what the proposed project will bring.

B. Environmental Impacts of the Proposed Project

- a. For each environmental site feature listed below, indicate the presence or absence of that feature on the property. Describe how the proposed project may encroach or adversely affect an environmental site feature. Information on environmental site features may be obtained from the indicated source(s).
- i. Wetlands -- Absent
 - ii. Floodplain -- Absent
 - iii. Streams/stream buffers -- Absent
 - iv. Slopes exceeding 25 percent over a 10-foot rise in elevation
 1. United States Geologic Survey Topographic Quadrangle Map
 2. Field observation and verification
 - v. Vegetation – The Subject Property does currently have trees. The project would require clearing some of the trees in order to develop the infrastructure and homes.
 - vi. Wildlife Species (including fish) – The Applicant is not aware of any wildlife species living on the Subject Property.
 - vii. Archeological/Historical Sites – The Applicant is not aware of any archeological or historical sites on the Subject Property.

C. Project Implementation Measures



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- a. *Describe how the project implements each of the measures listed below as applicable. Indicate specific implementation measures required to protect environmental site feature(s) that may be impacted.*
- i. *Protection of environmentally sensitive areas, i.e., floodplain, slopes exceeding 25 percent, river corridors*
 - 1. There are no environmentally sensitive areas on the Subject Property.
 - ii. *Protection of water quality*
 - 1. Any stormwater runoff produced by the site will be channeled into a stormwater detention facility and then slowly released over the course of twenty-four (24) hours. The stormwater will not adversely affect any existing streams.
 - iii. *Minimization of negative impacts on existing infrastructure*
 - 1. The Applicant is working with the City engineer to ensure that the existing infrastructure support the proposed project. At this time, the Applicant is aware that the Hayden Quarry Road and Turner Hill Road intersection is going to be realigned and the Applicant is working to ensure the proper right of way is dedicated to the City to allow for any needed road enhancements.
 - iv. *Minimization on archeological/historically significant areas*
 - 1. The Applicant is not aware of any archeological/historically significant areas on the Subject Property or even in the area.
 - v. *Minimization of negative impacts on environmentally stressed communities where environmentally stressed communities are defined as communities exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g. solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g. landfills, quarries and manufacturing facilities) uses.*
 - 1. The Applicant is not aware of any nearby, environmentally stressed, communities.
 - vi. *Creation and preservation of green space and open space*
 - 1. The project proposal includes various open/greenspaces throughout the community in addition to the required thirty (30) foot transitional buffers which will remain wooded. According to the site plan open space calculations, twenty (20) percent of the site will remain open space.
 - vii. *Protection of citizens from the negative impacts of noise and lighting*
 - 1. *The project proposal includes a thirty (30) foot transitional buffer between the townhome use and the single-family detached use. This buffer conforms to the City's zoning code. The buffer should provide adequate protection from any noise or lighting.*
 - viii. *Protection of parks and recreational green space*
 - 1. *The project proposal includes some enhanced green space with a pavilion and a dog park for members of the new community to use. This space will be maintained by an HOA.*



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ix. Minimization of impacts to wildlife habitats

1. The Applicant is not aware of any wildlife habitats on the Subject Property.

IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONTITUTIONAL RIGHTS

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal by the City of Stonecrest City Council to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject



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

A refusal to allow the land use amendment and/or rezoning in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A. Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the County an opportunity to revise the Property to a constitutional classification. If action is not taken by the County to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the County on notice that it may elect to file a claim in the Superior Court of Fulton 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 property rights.

MLB

Michele L. Battle, Esq.
Attorney for the Applicant



PLANNING COMMISSION

Planning Commission August 2, 2022 / Mayor and City Council Meeting August 22, 2022

GENERAL INFORMATION

Petition Number:	RZ-22-005
Applicant:	Dorsey, LLC c/o Battle Law P.C.
Owner:	Thomas W. Poole, Jr., Chad D. Johnson, Patricia C. Johnson
Project Location:	3266 and 7407 Hayden Quarry Road
Parcels:	16-182-03-001 and 16-182-02-003
District:	District 1
Acreage:	Tract 1: 20.98 acres and Tract 2: 10.05 acres
Existing Zoning:	R-100 (Residential Medium Lot)
Proposed Zoning:	MR-1 (Medium Residential Density)
Comprehensive Plan Community: Area Designation	UN (Urban Neighborhood)
Proposed Development/Request:	Seeking to rezone the subject properties from R-100 (Residential Medium Lot) to MR-1 (Medium Density Residential) to develop 55 single-family attached townhomes to be owned fee simple on +/- 6.9 acres of land being Tax Parcel Nos. 16 182 03 001 and 16 182 02 003 having frontage on 3266 and 7407 Hayden Quarry Road.
Staff Recommendations:	
Planning Commission	N/A
City Council	N/A



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Zoning Map



 **Subject Property**



PLANNING COMMISSION

Zoning Case: RZ-22-005

Address: 3266 and 7407 Hayden Quarry Road

Current Zoning: R-100 (Residential Medium Lot)

Proposed Zoning: OD (Office Distribution)

Aerial Map

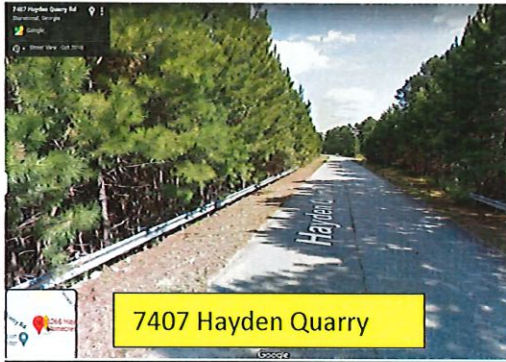


RZ-22-005

★ Subject Property



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PROJECT OVERVIEW

The applicant, Dossey, LLC. is seeking to develop on +/- 6.9 acres of land being Tax Parcel Nos. 16 182 03 001 and 16182 02 003 having frontage on 3266 and 7407 Hayden Quarry Road (the "Subject Property") with fifty-five (55) single-family attached townhomes to be owned fee simple. The Applicant is seeking a rezoning of the Subject Property from R-100 to MR-1.

BACKGROUND:

The subject property is a heavily wooded lot and has no past zoning petition attached to the staff.



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As shown in the table below, the subject property is surrounded by industrial and residential development. *
Please see the map below table

ADJACENT ZONING AND LAND USE		
	Zoning	Zoning Land Use
Adjacent: North	R-100 (Single-Family Medium Density) and C-1 (Local Commercial)	Single-family residential, Chick-fil-A, TGI Fridays and Walmart Supercenter
Adjacent: East	RSM (Residential Small Lot) and MR-1 (Medium Density Residential)	Residential Development
Adjacent: South	R-100 (Residential Medium Lot), C-1 (Local Business) and RSM (Residential Small Lot)	Turner Hill Baptist Church
Adjacent: West	R-100 (Med Residential) District C-1 (Local Commercial) and MR-1 (Medium Density Residential)	Residential and Mall at Stonecrest



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Zoning Criteria, Analysis and Comments

STANDARDS OF REZONING REVIEW

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

- **Whether the proposed land use change will permit uses that are suitable in consideration of the use and development of adjacent and nearby property or properties.**

The surrounding properties are developed with apartments, single-family detached homes, and a learning center. Some of the surrounding parcels are vacant.

- **Whether the proposed land use change 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 properties. The only properties that will be affected are those that once used Old Hayden Quarry Road for access. However, Old Hayden Quarry Road has been blocked off from use and kept in a state of disrepair for quite some time. The application will be submitting a right-of-way abandonment application along with this rezoning application to formally close Old Hayden Quarry Road. That properties that once used it are vacant, so no property owner will be affected by this request. The property abutting the Subject Property to the Southwest will also not be adversely affected by this zoning proposal. A substantial, thirty (30) foot buffer will be maintained at the portions of the Subject Property that abut those properties. This buffer will ensure that the new development will not adversely affect the existing single-family detached homes. Therefore, the zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property.

- **Whether the proposed land use change will result in uses which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**

The proposed land use will not cause excessive burdensome to this area. According to the trip generation report prepared for this zoning proposal by Ridge Planning and Engineering, the zoning proposal will add a total of 318 total trips over a twenty-four (24) hour period with twenty-five of those trips taking place during the morning peak travel time and twenty-nine (29) taking place during the evening peak travel time. The rest will take place



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outside of the peak travel hours. Therefore, the zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

- **Whether the amendment is consistent with the written policies in the comprehensive plan text and any applicable small areas studies.**

The Subject Property has a future land use designation of Urban Neighborhood and is currently zoned R-100. Thus, the current zoning designation does not conform to the future land use. The zoning proposal requests MR-1, which is in line with the future land use designation. Additionally, according to the Comprehensive Land Use Plan, “townhomes” are a specifically permitted use in the Urban Neighborhood land use designation. Thus, the zoning proposal conforms to the Comprehensive Land Use Plan.

- **Whether there are potential impacts on property or properties in an adjoining governmental jurisdiction, in cases of proposed changes near county or municipal boundary lines.**

The subject property is not directly adjacent to an adjoining governmental jurisdiction.

- **Whether there are other existing or changing conditions affecting the use and development of the affected land areas which support either approval or denial of the proposed land use change.**

There are no existing or changing conditions affecting the use and development of the affected land areas.

- **Whether there will be an impact on historic buildings, sites, districts or archaeological resources resulting from the proposed change.**

There are currently no historic buildings, sites, districts, or archaeological resources on the subject property, therefore there will be no impact on historic buildings.

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed petition.