

Raymond White
Director
Planning and Zoning
Department



Matthew
Williams
Deputy Director
Planning and
Zoning
Department

TO: Planning Commission

FROM: Planning and Zoning Department

SUBJECT: RZ-23-002

ADDRESS: 7199 and 7151 Hayden Quarry Road, 3261 Turner Hill Road

MEETING DATE: June 6, 2023

Summary: Applicant is seeking a major modification of the conditions of the subject property to change the conditions from zoning case number Z-05-01.

STAFF RECOMMENDATION: 3 APPROVALS AND 2 DENIALS



Commissioner District #1: Stephanie Brown

PROPERTY INFORMATION	
Location of Subject Property: 7199 and 7151 Hayden Quarry Road, 3261 Turner Hill Road	
Parcel Number: 16-171-02-003, 16-171-02-005, 16-171-02-012	
Road Frontage: Hayden Quarry Road & Turner Hill Road	Total Acreage: 32.09 +/-
Current Zoning: RSM (Small Lot Residential Mix) / C-1 (Local Commercial)	Overlay District: Stonecrest Tier 3
Future Land Use Map/ Comprehensive Plan: RC (Regional Center)	
Zoning Request: Applicant is seeking a major modification of the conditions of the subject property to change the conditions from zoning case number Z-05-01.	
Zoning History (CZ-05-01): Application of PBT Investments co/ Joseph B. Fitts, Sr. to rezone property located on the south side of Hayden Quarry Road, approximately 2,274.7 feet west of Turner Hill Road, from R-CH (Residential Cluster Housing) to R-A8 (Single Family Residential District).	

APPLICANT / PROPERTY OWNER INFORMATION
Applicant Name: Battle Law P.C.
Applicant Address: 3562 Habersham at North Lake, Building J, Suite 100
Property Owner Name: Parkland Communities Inc.
Property Owner Address: 299 S Main St, Ste A, Alpharetta GA 30009



DETAILS OF ZONING REQUEST

The Applicant, Battle Law P.C., on the behalf of the property’s owner, Parkland Communities LLC, is seeking to develop 129 single-family detached homes and 260 townhomes on the subject parcels. The Applicant is seeking a Major Modification of Conditions of the Subject Property to change the following conditions from zoning case number Z-05-01 to allow for the development: conditions 1, 4a, 4b, 4c, and 4l. The original conditions are listed below with the proposed changes in red.

Condition 1: The maximum number of units shall be ~~129~~ **225 units, with 171 units being developed for townhomes attached by a common wall, and 54 units** being developed ~~for~~ as single-family ~~detached~~ units. ~~attached at the rear of each unit.~~

Condition 4: Each unit shall have the following:

- **4a:** ~~One car garage attached to each townhome unit.~~
- **4b:** Two car garages ~~attached to each single family unit attached at the rear.~~
- **4c:** ~~Patio pad with a privacy fence.~~
- **4l:** ~~The project shall be developed with the following amenities: a swimming pool, and tennis courts.~~

The zone case, **CZ-05-01**, was heard in 2005 when subject parcels were within unincorporated Dekalb County. Application of PBT Investments co/ Joseph B. Fitts, Sr. to rezone property located on the south side of Hayden Quarry Road, approximately 2,274.7 feet west of Turner Hill Road, from R-CH (Residential Cluster Housing) to R-A8 (Single Family Residential District).

The applicant is proposing to add amenities on the parcel with the townhomes, which will cause the amenities from being on the single-family detached homes parcel. The applicant is proposing the following amenities on the subject parcel:

1. Approximately 6.61 acres of green, open space

ADJACENT ZONING & LAND USE

NORTH	Zoning: R-100 (Residential Medium Lot)	Land Use: Undeveloped Land
SOUTH	Zoning: MR-1 (Medium Density Residential)	Land Use: Apartments
EAST	Zoning: R-100 (Residential Medium Lot)	Land Use: Undeveloped Land
WEST	Zoning: R-100 (Residential Medium Lot) & MU-4 (Mixed-Use High Density)	Land Use: Single-Family Dwelling & Undeveloped Land



PHYSICAL CHARACTERISTICS & INFRASTRUCTURE

The site is currently undeveloped with two (2) road frontages (Hayden Quarry Road and Turner Hill Road). There is not flood zones located near the property.

MODIFICATIONS AND CHANGES TO APPROVED CONDITIONS OF ZONING CRITERIA

1. The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;
2. Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;
3. Any decrease in the size of residential units imposed in the original conditional zoning amendment;
4. Any change in any buffer requirements imposed in the original conditional zoning amendment;
5. Any increase in the height of any building or structure;
6. Any change in the proportion of floor space devoted to different authorized uses; or
7. Any change to conditions, except minor changes, as defined in subsection A. of this section, imposed by the city council when approving any change to the official zoning map, commonly referred to as a rezoning or a zoning amendment.

RECOMMENDATION

Staff recommends the following:

- **APPROVAL** of Modification of Condition 1
- **APPROVAL** of Modification of Condition 4a
- **APPROVAL** of Modification of Condition 4b
- **DENIAL** of Modification of Condition 4c
- **DENIAL** of Modification of Condition 4l



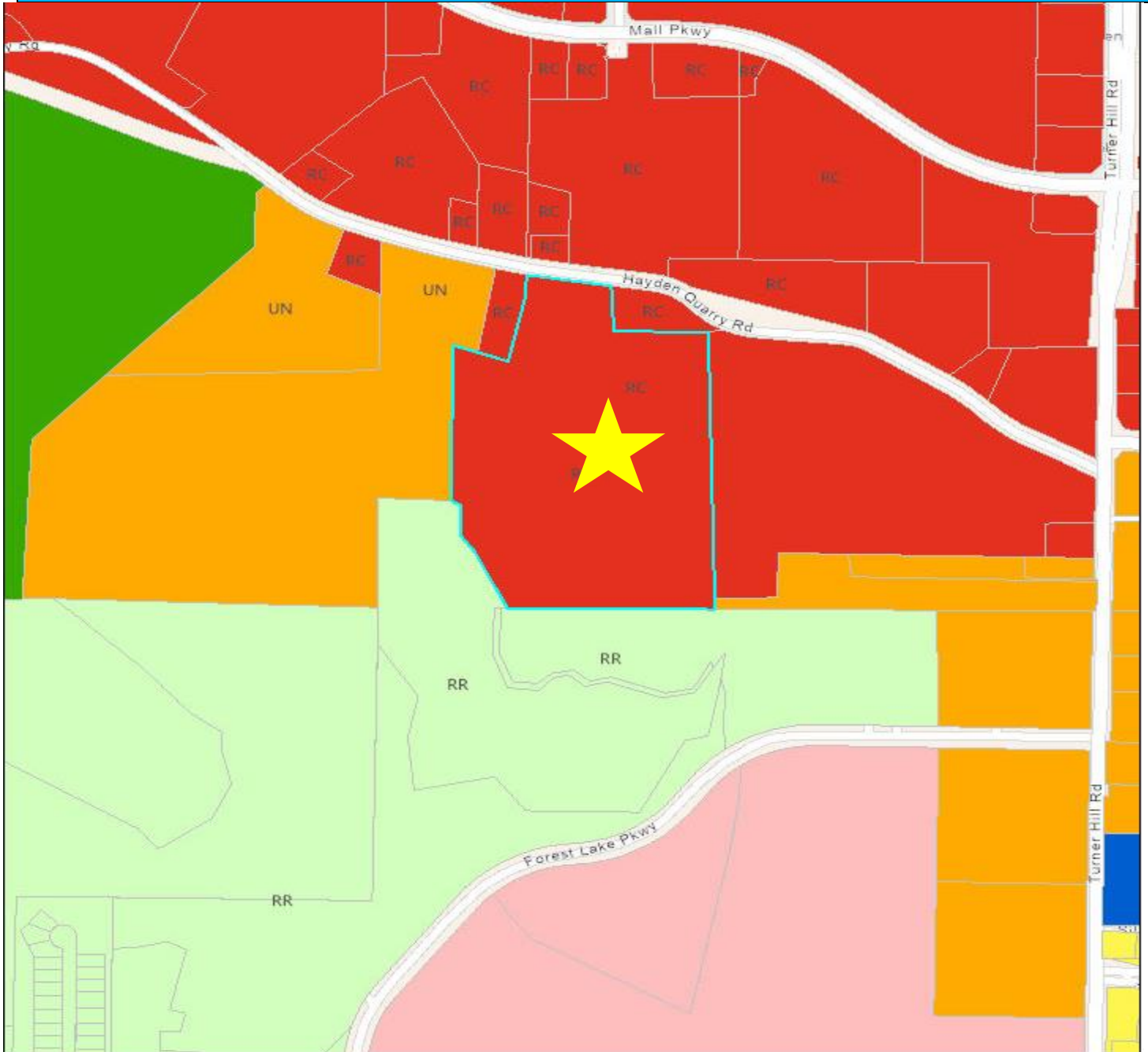
RZ-23-002

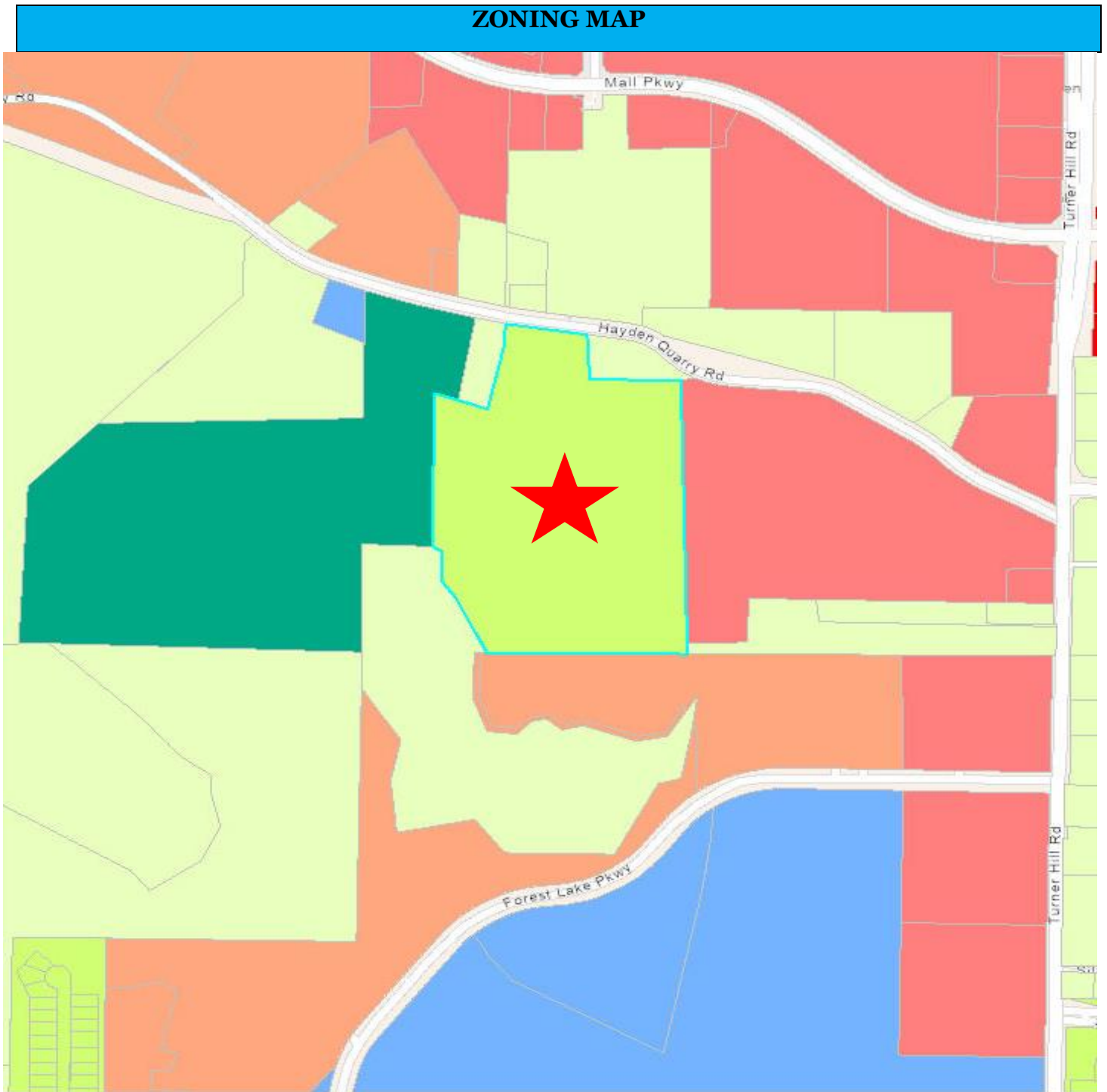
Planning and Zoning Department

Attachments Included:

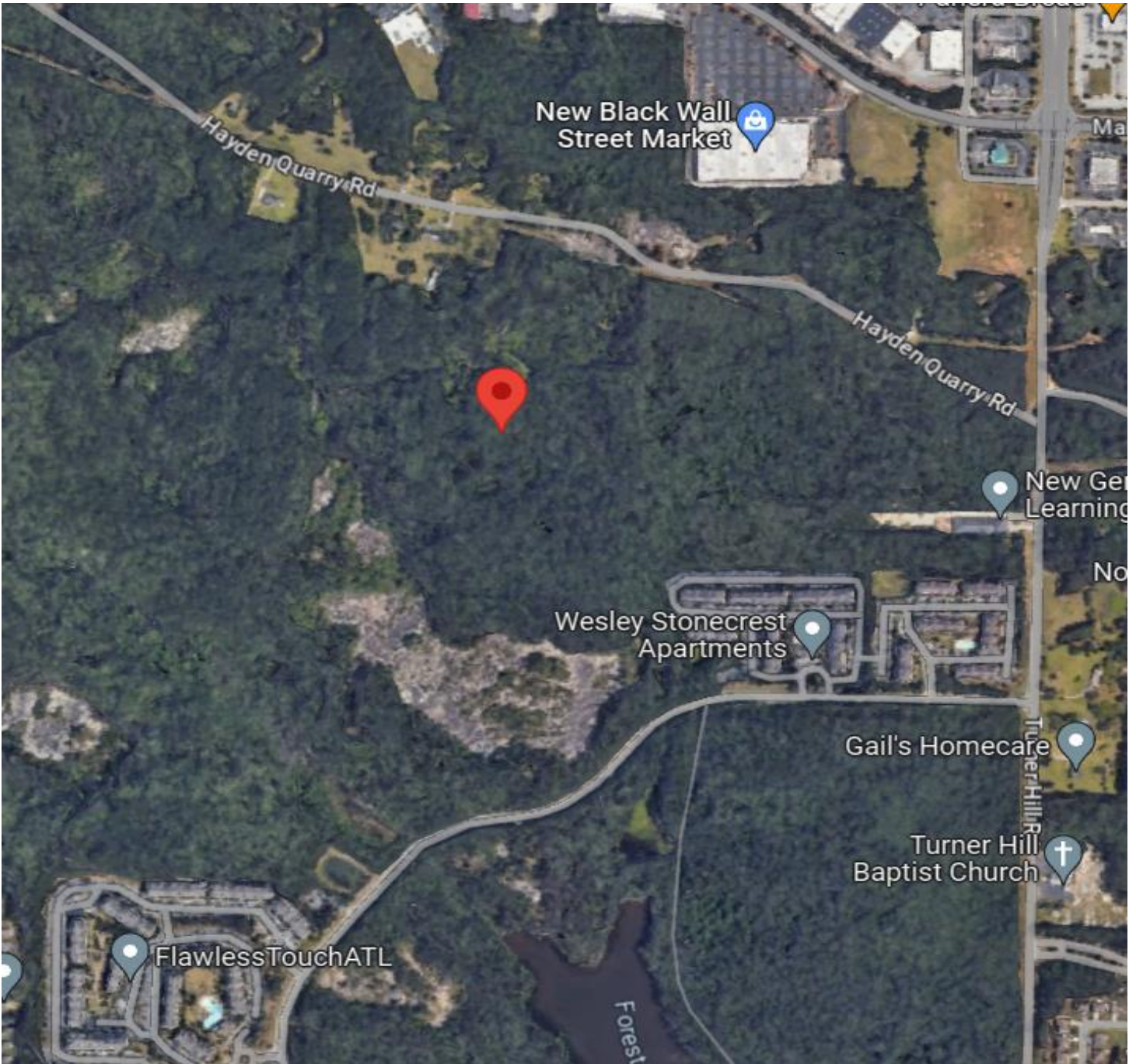
- **Future Land Use Map**
- **Zoning Map**
- **Aerial Map**
- **Site Plan/Survey**
- **Elevations**
- **Zoning Conditions**
- **Application**
- **Letter of Intent**

FUTURE LAND USE MAP





AERIAL MAP



SUBMITTED SITE PLAN



marta Future Park & Ride

NEW BLACK WALL STREET MARKET

Stonecrest Mall

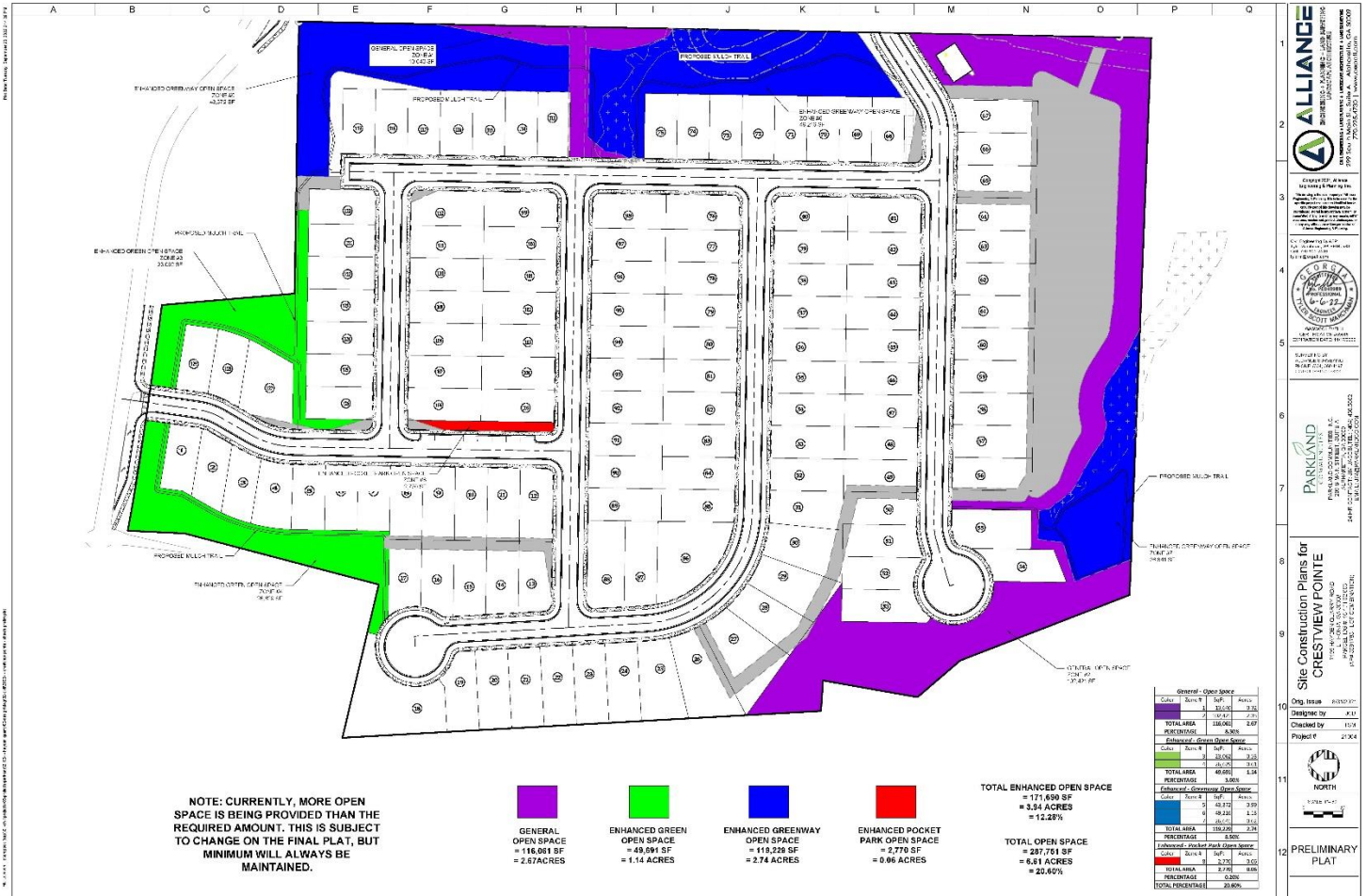
Stormwater Management

Play Field

Crestview Pointe
129 Single Family Lots

PARKLAND
COMMUNITIES

Crestwind Township
260 Townhomes



ALLIANCE
Site Construction Plans for
CRESTVIEW POINTE
1700 W. WINDMILL WAY, SUITE 100
DUNWOODY, GA 30118
PROJECT NO. 21704

PARKLAND
PARKLAND DEVELOPMENT, L.L.C.
1000 W. WINDMILL WAY, SUITE 100
DUNWOODY, GA 30118
PROJECT NO. 21704

City Issue: 06/02/23
Designed by: JKL
Checked by: JKL
Project #: 21704

NORTH

PRELIMINARY PLAT

SUBMITTED ELEVATIONS/RENDERINGS

OAKLEIGH

Character Example of Front Homes Architecture



FRONT ELEVATION



FRONT ELEVATION



FRONT ELEVATION



FRONT ELEVATION

NOTE: Elevations not to exceed 35'0" in height and have exterior materials to be combinations of fiber cement siding, brick veneer and/or stone veneer.



299 S. Main Street, Suite A | Alpharetta, Ga 30009 | Parklandco.com

OAKLEIGH

Character Example of Ranch Style Homes Architecture



FRONT ELEVATION



TYPICAL REAR ELEVATION



TYPICAL LEFT SIDE ELEVATION



TYPICAL RIGHT SIDE ELEVATION

NOTE: Elevations not to exceed 35'0" in height and have exterior materials to be combinations of fiber cement siding, brick veneer and/or stone veneer

OAKLEIGH

Character Example of Front Entry Homes Architecture



FRONT ELEVATION



TYPICAL REAR ELEVATION



TYPICAL LEFT SIDE ELEVATION



TYPICAL RIGHT SIDE ELEVATION

NOTE: Elevations not to exceed 35'0" in height and have exterior materials to be combinations of fiber cement siding, brick veneer and/or stone veneer

COMM. # H. Johnson
ITEM NO. D.9 8,2305
CLERK'S OFFICE CO

8/23/05

ZONING CONDITIONS FOR
PBT INVESTMENTS
7151 HAYDEN QUARRY ROAD
Z-05-01

1. The maximum number of units shall be 225 units, with 171 units being developed for townhomes attached by a common wall, and 54 units being developed for single-family units attached at the rear of each unit.
2. There shall be a mandatory home owners association ("HOA") which shall own all of the common area located within the project
3. All units within the project shall be fee simple units. None of the lots will be marketed to investors as rental property, and the HOA Declaration of Restrictive Covenants shall provide that no more than 15% of the total lots within the subdivision shall be utilized for rental purposes, except for "hardship cases" as provided for in the Declaration.
- 4.. Each unit shall have the following:
 - a. One car garage attached to each townhome unit
 - b. Two car garages attached to each single-family unit attached at the rear
 - c. Patio pad with a privacy fence
 - d. Sidewalks shall be located on both sides of the streets throughout the project
 - e. The front facades shall vary such that two adjacent homes will not be the same.
 - f. Front facades shall be constructed of brick, stone, or stucco and up to forty percent (40 %) Hardi-plank siding.
 - g. The side and rear facades of the units shall be constructed of brick, stone, stucco or Hardi-plank siding. The use of vinyl siding shall be strictly prohibited.
 - h. The entrance to the project shall be a brick monument sign, and shall be landscaped.
 - i. All detention facilities shall be shielded from view with evergreen trees and a minimum six (6) foot high fence, as provided in the DeKalb County Development Code.
 - j. Sidewalks shall be placed along property frontage on Hayden Quarry Road
 - k. Underground utilities shall be used throughout the property
 - l. The project shall be developed with the following amenities: a swimming pool, and tennis courts.



Rezoning Application

Owner Information	Owner's Name: Parkland Communities, Inc .		
	Owner's Address: 299 S Main St Suite A, Alpharetta, Georgia 30009		
	Phone: 404-999-2897	Fax: N/A	Email: Sherry@parklandco.com
	Property Address: 7199 Hayden Quarry Road,7151 Hayden Quarry Road,3261 Turner Hill Road		Parcel Size: 32.09 acres
	Parcel ID: 16 171 02 003, 16 171 02 005, and 16 171 02 012		
	Current Zoning Classification: RSM		
Property Information	Requested Zoning Classification: RSM with a major modification of conditions		
	Name: Parkland Communities, Inc. c/o Battle Law P.C.		
	Address: 3562 Habersham at Northlake Building J, Suite 100 Tucker, GA 30084		
	Phone: 404-601-7616	Fax: N/A	
	Cell: N/A	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?		
	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?			
Questionnaire	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?			



Affidavit

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

Applicant's Name: Parkland Communities, Inc c/o Battle Law P.C

Applicant's Signature: *[Signature]* Date: 3-24-2023

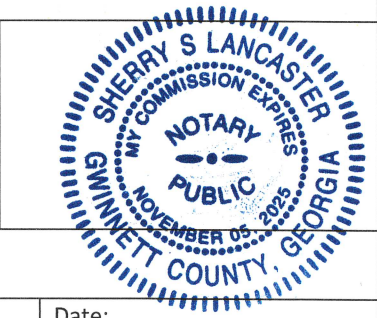
Sworn to and subscribed before me this 24th Day of March 20 23

Notary

Notary Public:

Signature: *[Signature]*

My Commission Expires: 11-05-2025



Application Fee Sign Fee Legal Fee

Fee

Fee: \$ Payment: Cash Check CC Date:

Approved Approved with Conditions Denied Date:

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



Campaign Disclosure Statement

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

Yes No

Applicant / Owner	Signature: <i>James D. Arabi</i>
	Address: 363 S Main Street, Alpharetta, Georgia 30009
	Date: <i>3.9.2023</i>

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

Date	Government Official	Official Position	Description	Amount



Property Owner(s) Notarized Certification

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

Property Owner (If Applicable)	Signature: <u><i>Amud J. Frobi</i></u>		Date: <u>3.9.2023</u>	
	Address: 363 S Main Street	City, State: Alpharetta, Georgia	Zip: 30009	
	Phone: 404-456-5562			
	Sworn to and subscribed before me this <u>9th</u> day of <u>March</u> , 20 <u>23</u>			
Property Owner (If Applicable)	Notary Public: <u><i>Sherry S Lancaster</i></u>			
	Signature:			
	Address:	City, State:		Zip:
	Phone:			
Property Owner (If Applicable)	Sworn to and subscribed before me this _____ day of _____, 20_____			
	Notary Public:			
	Signature:		Date:	
	Address:	City, State:	Zip:	
Property Owner (If Applicable)	Phone:			
	Sworn to and subscribed before me this _____ day of _____, 20_____			
	Notary Public:			



Battle Law

3562 Habersham at Northlake, Bldg. J, Ste 100
Tucker, Georgia 30084

Zoom Instructions:

Go to <https://otago.zoom.us/join> and Enter the Meeting ID that you have been provided with in the appropriate field and click "Join" . To join by phone, please dial (646) 558-8656. If you are unable to attend or would like to learn more about the proposed project, please call our office at the number below.

We encourage you to come out and participate!

For More Information Contact
Jordan Battle at:
Phone: 404-601-7616 ext. 8
Fax: 404-745-0045
Email: jnb@battlelawpc.com

COMMUNITY MEETING TO DISCUSS REZONING APPLICATION TO ALLOW FOR THE DEVELOPMENT OF SINGLE- FAMILY DETACHED HOMES

Project Title: 7151 Hayden Quarry

When: April 19th, 2023

Time: 6:00 PM Eastern (US and Canada)

Register in advance for this meeting:

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

Meeting ID: 863 3706 9255

Password: 085346

PROPOSED LOCATION(S):
Parcel Nos. 16 171 02 003, 16 171 02 010,
16 171 02 005, and 16 171 02 012



Battle Law

3562 Habersham at Northlake, Bldg. J, Ste 100
Tucker, Georgia 30084

PLEASE
PLACE
STAMP
HERE

«Name»

«Address»

«City», «State» «Zip»

BOWMAN FREEDOM LLC	535 MARRIOTT DR	NASHVILLE, TN	37214
BUCHSBAUM ESTHER R	2948 SEQUOYAH DR NW	ATLANTA, GA	30327
CARMAX AUTO SUPERSTORE INC	PO BOX 29965	RICHMOND, VA	23242
DEKALB COUNTY	1300 COMMERCE DR FLOOR 3RD	DECATUR, GA	30030
DILLMAN JACKIE L TRUSTEE	615 ROBIN ROAD	COVINGTON, GA	30016
FIRST FINANCIAL ASSOCIATES INC	7079 HAYDEN QUARRY RD	LITHONIA, GA	30038
FOREST LAKE VENTURES LLC	1010 HUNTCLIFF # 2315	ATLANTA, GA	30350
FOREST LAKE VENTURES LLC	1010 HUNTCLIFF # 2315	ATLANTA, GA	30350
FOSTER EMILY	7000 ROCKLAND RD	LITHONIA, GA	30038
G AND K COVENANT PROPERTIES II LLC	3271 TURNER HILL RD	LITHONIA, GA	30038
GADDIS DENISE BAILEY	11255 DONNINGTON DR	JOHNS CREEK, GA	30097
GEORGE RACHEL R	670 COVERED BRIDGE RD	COVINGTON, GA	30016
HAYDEN QUARRY LLC	70 CHEVAUX CT NW	ATLANTA, GA	30342
HUNT JOHNNY A	7210 HAYDEN QUARRY RD	LITHONIA, GA	30038
HUNT JOHNNY A	7210 HAYDEN QUARRY RD	LITHONIA, GA	30038
KAISER FOUNDATION HEALTH	1 KAISER PLZ FLOOR 15	OAKLAND, CA	94612
LANDCORPS INC	PO BOX 1936	MONROE, GA	30655
LO MICHAEL L	4027 SIGNAL RDG SW	LILBURN, GA	30047
MARTA	2424 PIEDMONT RD NE	ATLANTA, GA	30324
PARKLAND COMMUNITIES INC	299 S MAIN ST STE A	ALPHARETTA, GA	30009
PARKLAND COMMUNITIES INC	299 S MAIN ST STE A	ALPHARETTA, GA	30009
QUARRY PARTNERS LLC	1010 HUNTCLIFF # 2315	ATLANTA, GA	30350
QUARRY PARTNERS LLC	1010 HUNTCLIFF # 2315	ATLANTA, GA	30350
QUARRY PARTNERS LLC	1010 HUNTCLIFF # 2315	ATLANTA, GA	30350
RAGSDALE LIMITED PARTNERSHIP	2722 GLENEAGLES DR	TUCKER, GA	30084
REALPRO EQUITY LLC	2727 MOORINGS PKWY	SNELLVILLE, GA	30039
SAQ ENTERPRISE INC	4193 CHAPEL LAKE DR	DECATUR, GA	30034
STONECREST DEVELOPMENT AUTHORITY	3120 STONECREST AVE	LITHONIA, GA	30038
STONECREST PROPERTIES LLC	P.O. BOX 957148	DULUTH, GA	30095
TRACY L SAYERS INVESTMENTS LLC	600 BROOKSTONE CENTRE PKWY	COLUMBUS, GA	31904
TURNER HILL PARTNERS LLC	1010 HUNTCLIFF STE 2315	ATLANTA, GA	30350
TURNER HILL PARTNERS LLC	1010 HUNTCLIFF STE 2315	ATLANTA, GA	30350
WESLEY KENSINGTON PARTNERS LLC	1010 HUNTCLIFF STE 2315	ATLANTA, GA	30350

Environmental Site Analysis

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

1. Conformance to the Comprehensive Plan:

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

The Applicant seeks to develop on +/-32.09 acres of land being Tax Parcel Nos. 16 1714 02 003, 16 171 02 005, and 16 171 02 012 having frontage on 7151 Hayden Quarry Road with single-family detached homes. The Applicant is seeking a Major Modification of Conditions of the Subject Property to change the following conditions of zoning case number Z-05-01 to allow for the development: conditions 1, 4a, 4b, 4c, and 4l. The Applicant proposes the following changes:

Condition 1: The maximum number of units shall be ~~129 225 units, with 171 units being developed for townhomes attached by a common wall, and 54 units~~ being developed ~~for~~ as single-family detached units. ~~attached at the rear of each unit.~~

Condition 4a: Each unit shall have the following: ~~one car garage attached to each townhome unit~~ DELETED

Condition 4b: Each unit shall have the following: two car garages ~~attached to each single family unit attached at the rear~~

Condition 4c: Each unit shall have the following: ~~Patio pad with a privacy fence.~~ DELETED

Condition 4l: Each unit shall have the following: ~~The project shall be developed with the following amenities: a swimming pool, and tennis courts.~~ DELETED

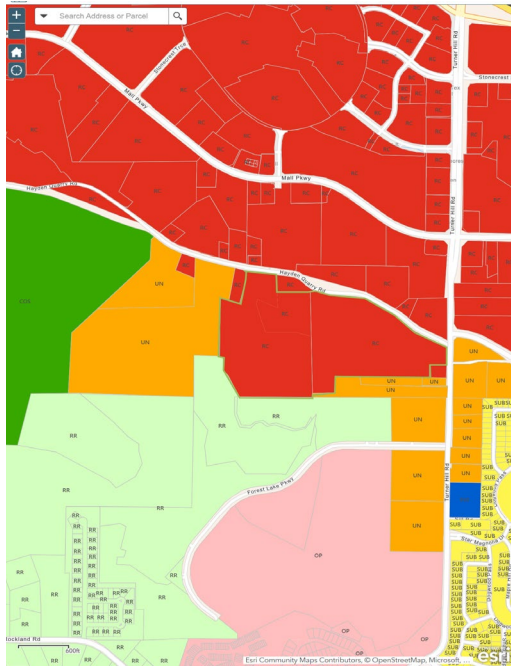
- b. Describe adjacent properties. Include a site plan that depicts the proposed project.

The site plan for the proposed project is attached to this application. The surrounding properties have future land use designations of RC, UN, and RR and are zoned RSM, MU-4, C-1, MR-1, and R-100. The surrounding properties are vacant, single-family homes, various commercial buildings ranging from restaurants and banks to the Stonecrest Mall to the north, and apartments.

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

The zoning proposal is in conformity with the policy and intent of the Comprehensive Plan. The Subject Property has a future land use designation of Regional Center and is on the very edge of those properties with that designation. This zoning proposal does not seek to change the future land use designation, nor does it seek to change the base zoning district. Rather, the proposal seeks to change certain zoning conditions affecting the Subject Property. This zoning proposal does not seek to introduce a use that would otherwise not be permitted, nor does it seek to introduce a zoning district that would not allow for uses uncharacteristic of the uses permitted on the surrounding properties. Therefore, the zoning proposal is in conformity with the policy and intent of the Comprehensive Plan.

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



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

This zoning proposal seeks to change conditions on the Subject Property. The change would eliminate the townhomes, reduce the number of homes on the Subject Property from 225 to 129 and require two car garages. The units will be relatively close together. The Regional Center character area permits 60 units per acre and up. While this development does not reach that number, it does serve as a suitable transition from the higher density uses to the lower density uses to the south of the Subject Property.

2. Environmental Impacts of The Proposed Project

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

a. Wetlands

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

There are wetlands on the southeastern side of the site. The stormwater management facilities required by City code have been planned for the eastern portion of the site. The stormwater management facilities will protect the wetlands from any stormwater runoff produced by the site. This will provide better protection than what exists today as there is currently no engineered solution to stormwater runoff on the site.

b. Floodplain

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

There are no floodplains on the Subject Property.

c. Streams/stream buffers

- Field observation and verification

There are no streams or stream buffers on the Subject Property.

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

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

There are no slopes exceeding 25% over a 10-foot rise in elevation on the site.

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

- Field observation

According to a field observation and satellite imagery, there are currently trees on the Subject Property. For any development, trees will have to be cut down to accommodate the buildings. However, the Applicant will work closely with the City Arborist to ensure that only the necessary clearing is performed. Dead and diseased trees will be cleared from the site as well.

f. Wildlife Species (including fish)

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

There are no wildlife species that will be adversely affected by the change of conditions application. The Subject Property is already approved for development as a mixture of single-family detached homes and single-family attached townhomes.

g. Archeological/Historical Sites

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

The Applicant is not aware of any archaeological or historic sites or resources on the Subject Property.



3. Project Implementation Measures

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

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

There are no floodplains, slopes exceeding 25%, or river corridors on the site. There are some wetlands on the southeastern portion of the Subject Property. The stormwater management facilities required by City code have been planned for the eastern portion of the site. The stormwater management facilities will protect the wetlands from any stormwater runoff produced by the site. This will provide better protection than what exists today as there is currently no engineered solution to stormwater runoff on the site.

- b. Protection of water quality

The Applicant is installing all required stormwater management facilities that will serve to protect any and all surrounding wetlands/streams from any stormwater runoff generated by the site.

- c. Minimization of negative impacts on existing infrastructure

The impact on existing infrastructure will be minimized.

- d. Minimization on archeological/historically significant areas

The Applicant is not aware of any archaeological/historically significant areas on the Subject Property.

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

Introducing the proposed project will allow the Applicant to engineer a solution to any and all ongoing stormwater runoff issues that may or may not be affecting the surrounding communities. Any stormwater runoff that comes from the site

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

The included site plan shows how green space and open space will be allocated across the site.

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

Once constructed, the Subject Property will be single-family homes which will abut apartments, vacant land, and one other single-family home. So, the use of the Subject Property will not have any negative impacts of noise or lighting on the surrounding properties. During construction, the Applicant will work during normal business hours to ensure that there are no noises or lights affecting the surrounding citizens.

- h. Protection of parks and recreational green space

The included site plan shows how green space and open space will be allocated across the site.



i. Minimization of impacts to wildlife habitats

There are no wildlife species that will be adversely affected by the change of conditions application. The Subject Property is already approved for development as a mixture of single-family detached homes and single-family attached townhomes.



Battle Law

STATEMENT OF INTENT

and

Other Material Required by
The City of Stonecrest Zoning Ordinance
For
A Major Modification of Conditions of
Z-05-01

of

PARKLAND COMMUNITIES, INC.
c/o Battle Law, P.C.

for

+/-32.09 Acres of Land
Being 7151 Hayden Quarry Road,
the City of Stonecrest, Georgia and
Parcel Nos. 16 171 02 003, 16 171 02 005, and 16 171 02 012

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

Parkland Communities, Inc. (the “Applicant”) seeks to develop on +/- 32.09 of land being Tax Parcel Nos. 16 171 02 003, 16 171 02 005, and 16 171 02 012 having frontage on 7151 Hayden Quarry Road (the “Subject Property”) with single-family detached homes. The Applicant is seeking a Major Modification of Conditions of the Subject Property to change the following conditions from zoning case number Z-05-01 to allow for the development: conditions 1, 4a, 4b, 4c, and 4l. The original conditions are listed below with the proposed changes in red.

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DELETED

Condition 4b: Each unit shall have the following: two car garages ~~attached to each single-family unit attached at the rear~~

Condition 4c: Each unit shall have the following: ~~Patio pad with a privacy fence.~~ DELETED

Condition 4l: Each unit shall have the following: ~~The project shall be developed with the following amenities: a swimming pool, and tennis courts.~~ DELETED

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

II. MAJOR MODIFICATION OF CONDITIONS CRITERIA

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

The zoning proposal is in conformity with the policy and intent of the comprehensive plan. The Subject Property has a future land use designation of Regional Center and is on the very edge of those properties with that designation. This zoning proposal does not seek to change the future land use designation nor does it seek to change the base zoning district. Rather, the proposal seeks to change certain zoning conditions affecting the Subject Property. This zoning proposal does not seek to introduce a use that would otherwise not be permitted, nor does it seek to introduce a zoning district that would not allow for uses uncharacteristic of the uses permitted on the surrounding properties. Therefore, the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

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



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The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The immediately adjacent properties are either vacant or developed with residential uses. The property nearby, but not immediately adjacent is developed for residential and commercial uses. The Subject Property is near Stonecrest Mall.

The zoning proposal does not seek to change the approved residential use. Rather, the proposal seeks to change the conditions placed on the property to allow for the development of 129 single-family detached homes. The conditions in place allow for townhomes and contemplate certain development standards that apply specifically to townhomes. To develop single family detached homes, the Applicant seeks to change those conditions to be more conducive to a single family detached product. Other single family detached homes are already in the area. Therefore, building new single family detached homes would be suitable in view of the use and development of adjacent and nearby properties.

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

The property to be affected by the zoning proposal does not have a reasonable economic use as currently zoned.

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

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The zoning proposal will reduce the overall number of approved units on the Subject Property and change the housing product from a mixture of single family detached homes and townhomes to just single family detached homes. This change, along with the various design changes, will have a positive affect on the existing use or usability of adjacent or nearby property by limiting the intensity of the residential use permitted on the Subject Property. Therefore, the zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property.

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

The Applicant is not aware of other existing or changing conditions that provide supporting grounds for either approval or disapproval of the zoning proposal.

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

The zoning proposal will not adversely affect historic buildings, sites, districts, or archaeological resources. The Subject Property does not lie within a historic district, nor near any historic sites.



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The Applicant is not aware of any historic buildings or archaeological resources on the Subject Property. Therefore, the zoning proposal will not adversely affect historic buildings, sites, districts, or archaeological resources.

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

The zoning proposal will not result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The approved plan for the Subject Property contemplates roughly 100 more units than what this zoning proposal does. So, the Applicant is entitled to build out the property for the 225 approved residential units. Instead, this zoning proposal seeks change the zoning conditions to allow for 129 single family detached homes. This reduction in the number of units will produce far less strain on all City resources, including the existing streets, transportation facilities, utilities, and schools than the approved plan. Therefore, the zoning proposal will not result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

III. CONCLUSION

For the foregoing reasons, the Applicant hereby requests that the application for a Major Modification of Conditions be approved. The Applicant welcomes any questions and feedback from the planning staff.

IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS

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

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



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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 Mayor and 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 Major Modifications of Conditions of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A refusal to allow the land use amendment and/or Major Modification of Conditions 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 Major Modification of Conditions 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

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