



PLANNING COMMISSION

Planning Commission October 4, 2022 / Mayor and City Council Meeting October 24, 2022

GENERAL INFORMATION

Petition Number:	RZ-22-007
Applicant:	AG Investments Holdings, LLC c/o Dennis J. Webb Jr., Smith, Gambrell & Russell, LLP
Owner:	Ivey Family Trust (Justin Ivey)
Project Location:	3310, 3320, and 3330 Turner Hill Road
Parcel:	16-181-07-039, 16-181-07-038, 16-181-07-037
District:	District 1
Acreage:	4.826 +/- acres
Existing Zoning:	R-100 (Residential Medium Lot) Stonecrest Overlay Tier 2
Proposed Zoning:	C-1 (Local Commercial)
Comprehensive Plan Community: Area Designation	UN (Urban Neighborhood)
Proposed Development/Request:	The applicant is requesting to rezone the subject properties from R-100, to C-1 to allow for a development of a neighborhood shopping center.
Staff Recommendations:	<i>Denial</i>
Planning Commission	N/A
City Council	N/A



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Zoning Map



Zoning Case: RZ-22-007

Address: 3310, 3320, 3330 Turner Hill Road.

Current Zoning: R-100 (Residential Small Lot)

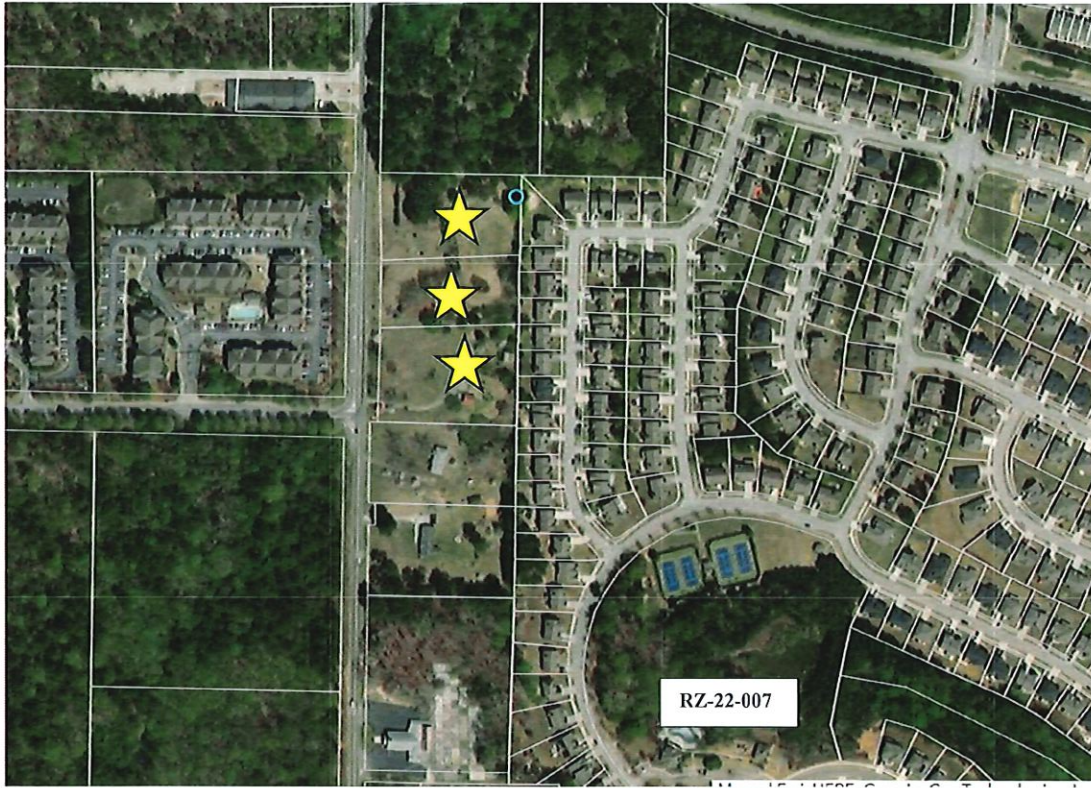
Proposed Zoning: C-1 (Local Commercial)



Subject Property



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Aerial Map



PROJECT OVERVIEW



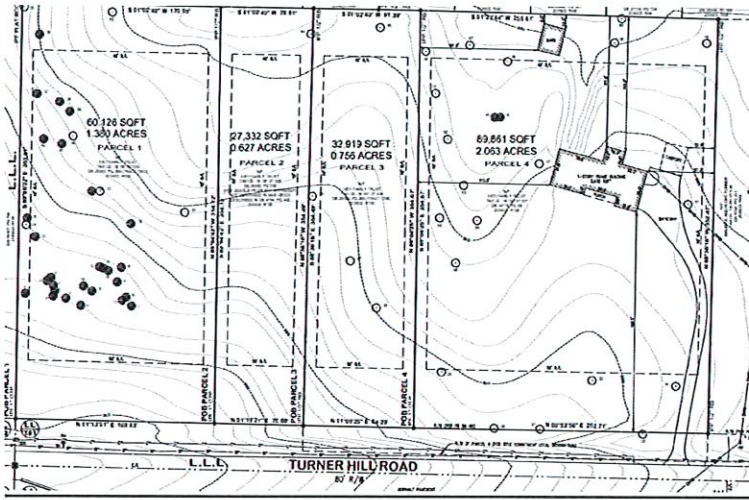
Location

The subject properties are located 3310, 3320, and 3330 Turner Hill Road (Parcel IDs: 16-181-07-039, 16-181-07-038, 16-181-07-037). The Subject Property collectively consists of a ±4.826 acres located in Land Lots 181, 16th District, City of Stonecrest, DeKalb County, Georgia (“Subject Property”).

The property is bounded by Hayden Quarry Road and Forest Lake Parkway.



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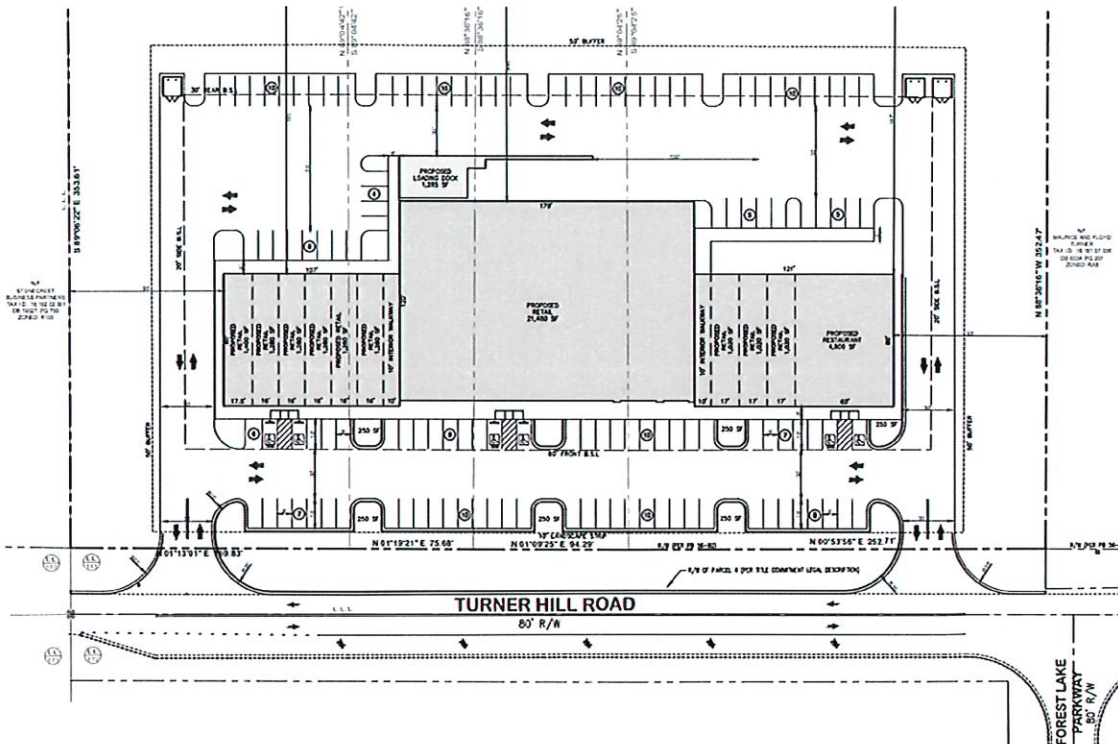
Rezoning Request

Background:

The applicant is seeking to rezone the subject property from R-100 to C-1 to allow for a shopping center that will consist of a grocery store, restaurant and retail stores. The site plan reflects 9 retail stores ranging from 1020 sf to 1400 sf. There will be a 4000 sf restaurant and a 21,480 sf retail store (grocery store). Public parking will be located in the front and rear of the subject property. There will be two ingress and egress access points from Turner Hill Road. The subject property is currently developed with a vacant single family residence and several accessory structures (a bard and sheds). The property is located south of Stonecrest Mall and is characterized by a mix of multi-family and single family residential dwellings. There is a row of R-100 zoned properties along this stretch of Turner Hill Road. Further to the east, across Turner Hill Road, is a property zoned C-1 containing the Wesley Stonecrest apartments. To the east, the property in question abuts several lots within the Parks of Stonecrest subdivision, all zoned RSM (Residential Small Lot) and developed with single family detached homes. North of the subject property, an undeveloped property is zoned R-100 and to the South, is an R-100 zoned property containing a single family residence.



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Public Participation

Community Planning Information Meeting was on September 13, 2022. There was no surrounding property owner to speak in opposition of the rezoning petition, but there were several inquiries and comments regarding security, lighting, and noise ordinance.

STANDARDS OF REZONING REVIEW



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ADJACENT ZONING AND LAND USE		
	Zoning	Zoning Land Use
Adjacent: North	R-100	Single family residential
Adjacent: East	RSM (Residential Small Lot)	Parks of Stonecrest subdivision
Adjacent: South	R-100	Single family residential
Adjacent: West	C-1 (Local Commercial), MR-1 (Medium Density Residential)	Wesley Stonecrest Apartments,

Zoning Criteria, Staff's Analysis and Comments

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.

As shown in the table above, the subject property is surrounded by commercial and residential development.

- Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property or properties.



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The existing land use is residential and could potentially affect the existing use or usability of adjacent of nearby property or properties. The current zoning of the property is the recommended zoning classification for the proposed land use and would be like adjacent properties.

- **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 subject property is south of Stonecrest Mall and adjacent to other retail and commercial businesses. There will be added ingress and egress to Turner Hill Road. Due to a traffic study was not evaluated in this process, staff does not have clear data if transportation facilities, utilities and nearby schools will be impacted.

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

The proposed use of a commercial development is in accordance with the written polices in the Stonecrest comprehensive plan. The land use designation for the subject properties is Urban Neighborhood. The intent of the Urban Neighborhood future land use designation is to allow for townhomes, multi-family, neighborhood rentals, small scale retail and commercial development. Although the proposed rezoning is in compliance with the Stonecrest comprehensive plan, it is considered a spot rezoning and it is proposing to introduce a large scare retail development.

- **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.**

There are no potential impacts on the subject property or properties. The subject property is over 2000 ft away from unincorporated DeKalb County. The adjoining governmental jurisdiction will not be affected by the proposed change.

- **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 known existing conditions affecting the use and development of the shopping center development. The applicant is seeking this rezoning to allow for neighborhood shopping center consisting of retail stores, restaurant and grocery store.

- **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.



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STANDARDS OF REZONING REVIEW

Section 7.3.5 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 zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.**

Yes. The Proposed Development will complement the existing commercial development in the area. Additionally, the Applicant's request will not result in a different use than what is allowed in the comprehensive plan; however, the applicant is seeking to spot rezone and is seeking to introduce a large scale retail development to an area that is mostly residential in nature with small scale retail.

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

The subject property is located within the Urban Neighborhood character area of the Stonecrest Comprehensive Plan. The character area intends to lend to commercial and residential development. The proposed zoning change and development of neighborhood shopping center would be in keeping with the policy and intent of the comprehensive plan.

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

The property is currently zoned R-100, which permits the development of a single family residential dwelling. The property does have reasonable economic use as currently zoned.

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

The proposed zoning proposal could have a negative impact on the existing use or usability of adjacent or nearby properties. The proposed development may introduce more large scale retail development to the area. The intent of the Urban Neighborhood character area is to preserve the style and appeal of older compact pedestrian-friendly neighborhoods and communities. The characteristics include higher pedestrian orientation, sidewalks and more grid-like street patterns. This will include on-street parking, small and regular lots and buildings closer to the front property line. There shall be neighborhood-scale commercial scattered throughout.

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

There are no known existing conditions or changing conditions affecting the use and development of the subject property. The current zoning is the same proposed zoning classification.



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

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

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

The zoning proposed is not expected to cause excessive burdensome use of existing streets, transportation facilities, utilities or schools.

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

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

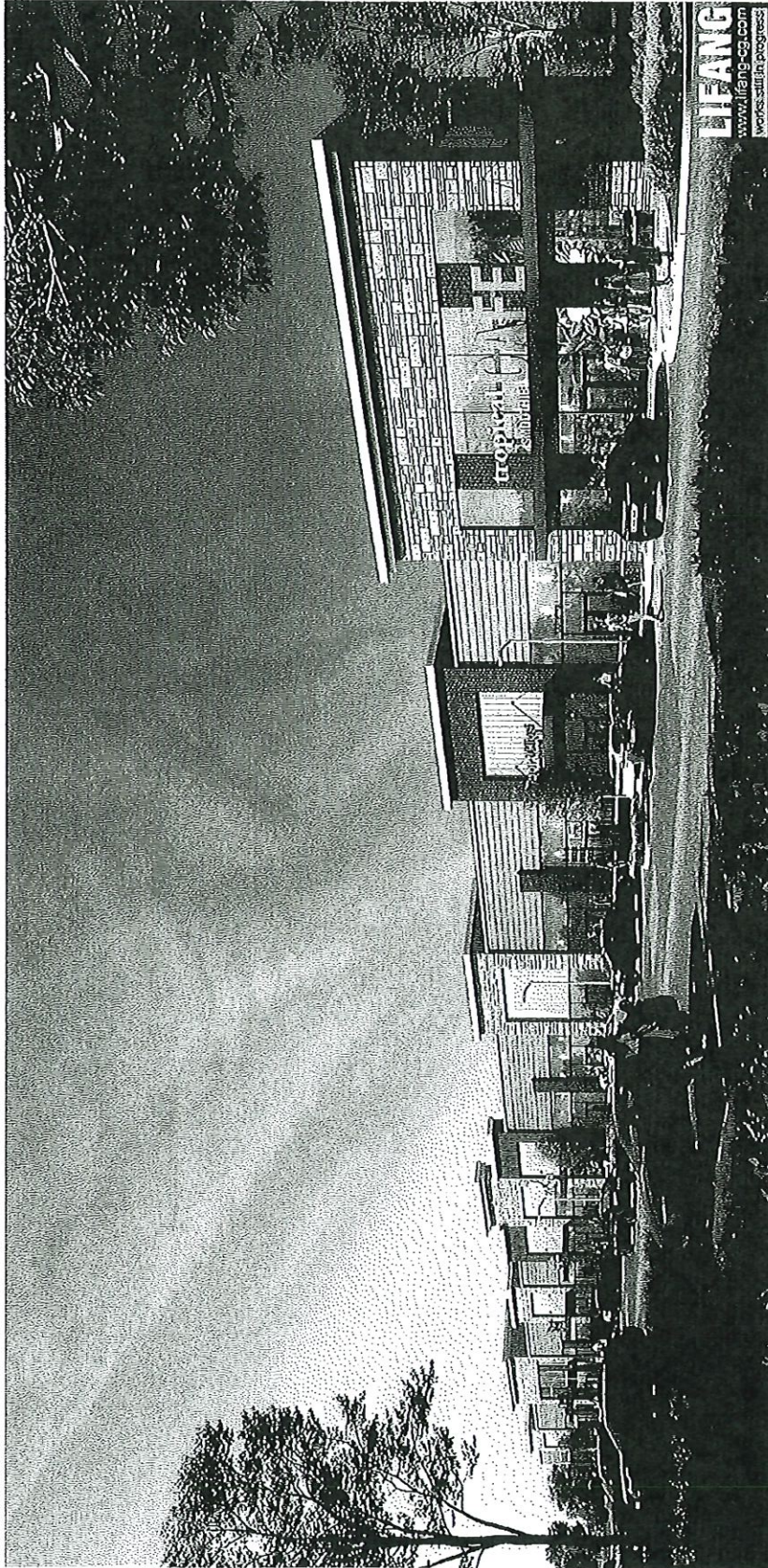
STAFF RECOMMENDATION

Staff recommends **Denial** of RZ-22-007. The conditions are the following:



Amendment Application

Property Information	Owner's Name: Ivey Family Trust (Justin Ivey)	
	Owner's Address: 2752 Rd Wolf Drive, Fort Worth, Texas 76244	
	Phone:	Fax: Email:
	Property Address: 3310, 3320 and 3330 Turner Hill Rd. Stonecrest, GA 30038 Parcel Size: 4.826 ac.	
	Parcel ID: 1618107039, 1618107038, 1618107037	
	Current Zoning Classification: R-100	
Applicant Information	Requested Zoning Classification: C-1	
	Name: AG Investment Holdings, LLC c/o Dennis J. Webb, Jr., Smith, Gambrell & Russell, LLP	
	Address: 1105 W. Peachtree Street, NE, Suite 1000, Atlanta, Georgia 30309	
	Phone: 404.815.3500	Fax: 404.685.6920
	Cell: 404.815.3620	Email: dwebb@sgrlaw.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 checked="" type="checkbox"/> No	
Questionnaire	1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties? <p style="text-align: center;">See attached Letter of Intent.</p>	
	2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned? <p style="text-align: center;">See attached Letter of Intent.</p>	
	3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property? <p style="text-align: center;">See attached Letter of Intent.</p>	
	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? <p style="text-align: center;">See attached Letter of Intent.</p>	
	5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources? <p style="text-align: center;">See attached Letter of Intent.</p>	
	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? <p style="text-align: center;">See attached Letter of Intent.</p>	
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.	



LIFANG
www.lifang-cg.com
works still in progress

SCB/4071075.1

Letter of Intent

LETTER OF INTENT

and

Other Material Required by
City of Stonecrest Zoning Ordinance

for the

Rezoning Application

of

AG INVESTMENT HOLDINGS, LLC

for

±4.826 acres of land located in
Land Lot 181, 16th District
3310, 3320, and 3330 Turner Hill Road

Submitted for Applicant by:

Dennis J. Webb, Jr.
Kathryn M. Zickert
J. Alexander Brock
Smith, Gambrell & Russell, LLP
1105 W. Peachtree Street, NE
Suite 1000
Atlanta, Georgia 30309
(404) 815-3500

I. INTRODUCTION

This Application seeks to rezone an assemblage of four properties from the R-100 (Residential Medium Lot-100) district to the C-1 (Local Commercial) district to allow for the development of a neighborhood shopping center. The Subject Property consists of a ±4.826-acre assemblage located in Land Lot 181, 16th District, City of Stonecrest, DeKalb County, Georgia (“Subject Property”). The Subject Property is more particularly located at 3310, 3320, and 3330 Turner Hill Road (Parcel IDs: 1618107039, 1618107038, and 1618107037)¹. AG Investment Holdings, LLC (the “Applicant”) seeks to develop the Subject Property with a ±37,390 square foot retail shopping center, parking, and associated site improvements (the “Proposed Development”). The Proposed Development will contain a variety of tenants including retail, restaurants (including a potential cookie shop, coffee shop, and ice cream tenants, among others), service², and grocery.³ The proposed mix of commercial uses will be fitting for area, given the Subject Property’s location and its compatibility with the nearby residential.

The Subject Property is currently developed with a vacant single family residence and several accessory structures (a barn and sheds). It is located in an area just south of Stonecrest Mall that is characterized by a mix of multi-family and single family residential uses in varying residential and commercial zoning districts. To the west, the Subject Property abuts the right-of-way of Turner Hill Road. Further to the east, across Turner Hill Road, is a property zoned C-1 containing the Wesley Stonecrest apartments. There are several other C-1 zoned properties

¹ According to the Applicant’s survey by IronStone Surveying, dated 1/19/2022, there are four parcels, but only three Parcel ID numbers. The survey notes that Parcel 1618107038 is two separate tracts per the deed information. However, DeKalb County GIS and the DeKalb County Tax Assessor’s data show Parcel 1618107038 as one tract with a single parcel id number.

² Potential service tenants could include dental offices, gym, or other similar service use.

³ Tenants and leases are not yet confirmed, but the Applicant has received interest from several restaurant tenants and a grocery tenant.

along the west side of Turner Hill Road to the north and south of the Subject Property. To the east, the Subject Property abuts several lots within the Parks of Stonecrest subdivision, all zoned RSM (Small Lot Residential) and developed with single family detached homes. To the north, the Subject Property is bordered by undeveloped property zoned R-100. To the south, the Subject Property is bordered by an R-100 zoned property containing a single family residence. To the east, the Subject Property abuts several lots within the Parks of Stonecrest subdivision, all zoned RSM (Small Lot Residential) and developed with single family detached homes.

Given the surrounding development in the area, a smaller, neighborhood-scale commercial development is an appropriate use. The proposed mix of restaurant, grocery and retail will provide the surrounding residences with quick and convenient access to needed residential services. Also, the proximity to existing residential will help encourage pedestrian and bike access to the proposed restaurants and shops. Currently, no neighborhood-scale commercial exists in the immediate area. The closest commercial developments are those that surround the Stonecrest Mall, approximately ½ mile to the north of the Subject Property. While this area provides access to retail and restaurants, it is highly developed and surrounded by roadways with large volumes of daily traffic, thus limiting its appeal to pedestrian travel. Additionally, the area only has one nearby grocery store, the Walmart Supercenter located ±1 mile from the Subject Property at 8424 Mall Parkway, with the next closest grocery stores being more than two miles from the Subject Property.⁴ The Proposed Development will add grocery within close proximity to residential and within walking distance of the nearby multifamily,

⁴ There is also a Wayfield Food located ±2.6 miles from the Subject Property at 2636 Max Cleland Blvd, Lithonia, GA, El Sol Carneceria Supermercado y Taqueria, located ±2.3 miles from the Subject Property at 2556 Jeremiah Ind. Way S, Conyers, GA; and S&S International Meat and Produce located ±2.1 miles from the Subject Property at 8661 Old Covington Hwy., Conyers, GA.

allowing for convenient shopping and quick trips for necessities.

The Applicant is also paying close attention to scale and buffers to limit any impact on the adjacent residential. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on a particular property to protect neighborhoods from adverse effects. To achieve the onsite transition, the proposed site design will incorporate a 50-foot buffer along the northern, eastern and southern property lines that abut neighboring residential. There will also be ±67 feet of green space between the back of the building and the rear lots of the Parks of Stonecrest subdivision. The green space will be grassed and landscaped to significantly buffer the Proposed Development’s impacts on the adjacent homes. Consequently, the Proposed Development will blend harmoniously with the surrounding development.

In addition to being appropriate with the surrounding uses, the Proposed Development is also in alignment with the City of Stonecrest 2038 Comprehensive Plan (“Comp Plan”). The Subject property is located within the Urban Neighborhood character area which calls for residential and small scale nonresidential uses. As described in further detail in Paragraph II.A below, the Comp Plan notes that the proposed C-1 zoning and the neighborhood-scale commercial are appropriate for the character area. The C-1 zoning is currently present in the area, most notably directly across Turner Hill Road from the Subject Property, but the

neighborhood-scale commercial is lacking. The Proposed Development seeks to address this by introducing small scale retail, restaurant and grocery uses into proximity of the adjacent residential.

The requested rezoning will allow a use that is better suited to the Subject Property and appropriate and fitting with the nearby residential. The Applicant submits this document as a Letter of Intent with regard to its Application, a preservation of the Applicant's constitutional rights, and a written analysis for the proposed rezoning criteria listed in the City of Stonecrest Zoning Ordinance ("Zoning Code"), § 7.3.5.

II. CRITERIA TO BE APPLIED TO REZONING

A. WHETHER THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COMPREHENSIVE PLAN.

Yes. The Comp Plan and the Future Land Use Map (FLUM) designate the Subject Property as being within the Urban Neighborhood character area. The Urban Neighborhood character area notes certain zoning districts as being compatible, including the proposed C-1 district. *See Comprehensive Plan 2038, figure LU-06.* Also, the Comp Plan notes that small scale retail/commercial is an appropriate use at certain locations within the Urban Neighborhood:

The non-residential development in suburban areas shall be limited to small-scale convenience goods/services to meet the needs of the surrounding residents. Small scale nonresidential development shall be limited to qualifying intersections (collector roadway and above). *See City of Stonecrest 2038 Comprehensive Plan, pg. 141.*

The Subject Property fronts Turner Hill Road at its intersection with Forrest Lake Parkway. The GDOT State Functional Classification Map lists Turner Hill Road as a minor arterial (i.e. more intense than a collector roadway). Consequently, the Subject Property is appropriately situated for nonresidential development per the Comp Plan.

Additionally, the proposed shopping center use supports the stated intent of the Urban Neighborhood character area:

The intent of the Urban Neighborhood Character Area is to preserve the style and appeal of older compact pedestrian-friendly neighborhoods and communities. The characteristics include higher pedestrian orientation, sidewalks and more grid-like street patterns. They have on-street parking, small, regular lots, and buildings closer to the front property line. **These areas may have alleys and neighborhood-scale commercial scattered throughout.** The proposed density for areas of this type is up to 12 dwelling units per acre. (emphasis added) See City of Stonecrest Comprehensive Plan 2038, pg. 137.

Despite several nearby properties being appropriately zoned for nonresidential use, commercial development in the area has been limited to the area immediately surrounding Stonecrest Mall.

The Comp Plan's desire for "neighborhood-scale commercial scattered throughout" is lacking in the immediate area. The Proposed Development seeks to address this misstep and infuse small-scale retail, restaurant, and grocery within close proximity to residential.

Also, the Proposed Development supports the following goals of the Urban Neighborhood character area:

- Residential Protection - Protect stable neighborhoods from incompatible development that could alter established residential development patterns and density.
- Non-Residential Development - The non-residential development in suburban areas shall be limited to small-scale convenience goods/services to meet the needs of the surrounding residents.
- Bicycle and Pedestrian - Encourage good vehicular and pedestrian/bike connections to retail/commercial services as well as internal street connectivity, connectivity to adjacent properties/subdivisions, and multiple site access points.
See City of Stonecrest Comprehensive Plan 2038, pg. 141

The proposed use, therefore, is suitable *vis-a-vis* the policies of the Comprehensive Plan.

B. WHETHER THE ZONING PROPOSAL WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY OR PROPERTIES.

Yes. The Proposed Development will complement the existing residential development

in the area and will fully mitigate its impacts on the adjacent single family residential. As noted in previous paragraphs, the Proposed Development will bring a variety of neighborhood oriented restaurant, retail, service and grocery uses within walking distance.

C. WHETHER THE PROPERTY TO BE AFFECTED BY THE ZONING PROPOSAL HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED.

Under the current R-100 zoning, the Subject Property could be developed for large lot residential, with lots of 15,000 square feet or more. However, there is limited appeal for large lot residential fronting on a highly traveled arterial roadway. Turner Hill Road, a minor arterial, has approximately 11,590 vehicular trips per day⁵, limiting its attractiveness to residential development. To illustrate this point, the existing home has been vacant and marketed for sale for a number of years with no interest in residential development under the current R-100 zoning. The lack of interest in residential development is likely due to the Subject Property's current zoning which has not kept pace with the development trends in the area.

The Subject Property's existing home was constructed approximately 55 years ago⁶ at a time when Turner Hill Road was much less heavily traveled and the area was more rural in character. In the past 55 years, particularly with the development of the nearby Stonecrest Mall, the area has transformed into a suburban character area with increased traffic on the adjacent roadways. The area's increase in intensity and the introduction of large scale commercial to the north (i.e. Stonecrest Mall) makes the appeal of small scale commercial development much more appropriate for the Subject Property. In fact, the high number of vehicular trips on the adjacent

⁵ Data obtained from the Georgia Department of Transportation's Traffic Analysis & Data Application website: <https://gdottrafficedata.drakewell.com/publicmultinodemap.asp> (last visited 07/30/2022). Trip data is for traffic count station 089-0556, located on Turner Hill Road just north of Hayden Quarry Road, taken in April 2022.

⁶ According to the DeKalb County Tax Assessor's information the structures were built between 1966 and 1967.

roadway, while limiting for residential development, is an advantage for commercial development, which thrives on high visibility. As a result, the Subject Property will likely remain vacant unless the zoning is brought into alignment with the development trends in the area.

D. WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY.

The Proposed Development will not adversely impact the surrounding properties and any impacts from the Proposed Development will be offset by the incorporation of additional buffers. The Applicant is proposing a 50-foot buffer along the boundary with the adjacent residential properties. The Applicant will also be providing ±67 feet of green area between the proposed rear parking and the back of the lots in the adjacent Parks of Stonecrest subdivision. Similarly, there will be approximately 179 feet of separation between the proposed structure and the closest home in the Parks of Stonecrest subdivision.⁷ In addition, the proposed uses will place restaurant, retail and grocery, all compatible with residential use and within walking distances of the existing residential developments. As a result, the requested modifications will not adversely impact the use or usability of the adjacent property, and is anticipated to have a net positive effect.

E. WHETHER THERE ARE OTHER EXISTING CONDITIONS OR CHANGING CONDITIONS AFFECTING THE PROPERTY'S USE AND DEVELOPMENT THAT PROVIDE SUPPORTING GROUNDS FOR APPROVAL OR DENIAL OF THE ZONING PROPOSAL.

Yes. As noted in previous paragraphs the character of the surrounding area has changed in the 55 years since the development of the existing home on the Subject Property. The

⁷ Measurements determined from DeKalb GIS information using the home at 7742 White Oak Loop.

development trends have changed the area from one that was rural in 1967, when the existing home was built, to the current suburban area. In that same time, particularly with the development of Stonecrest Mall, traffic on the adjacent roadways has increased, transforming Turner Hill Road into a minor arterial. The Subject Property's R-100 zoning is now out of step with the surrounding development patterns and the growth of the area. The proposed C-1 zoning will allow a development that is more fitting to the Subject Property's location on an arterial roadway and in-sync with other zoning in the area, including the C-1 districts directly across Turner Hill Road from the Subject Property.

F. WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT HISTORIC BUILDINGS, SITES, DISTRICTS, OR ARCHAEOLOGICAL RESOURCES.

The proposed modification will not adversely impact any historical resources. According Georgia's Natural, Archaeological and Historic Resources GIS (GNAHRGIS) maps, the project site is not on a historic or archaeological registry.

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 Applicant does not anticipate any significant impact to the vehicular traffic from the amount of trips that the Proposed Development will generate. The Applicant used the Institute of Traffic Engineers (ITE) Trip Generation Manual (Ninth Edition) (ITE Category 820 Shopping Center)⁸, to calculate vehicle trips for the Proposed Development. According to the ITE Trip Generation Manual, the 37,390 square foot shopping center will generate ±35.89 trips during the

⁸ ITE Categories 820 accounts for a shopping center with a variety of uses. Since the separate floor areas for the individual uses have not yet been determined, ITE Category 820 was used to calculate trips from the overall development.

weekday A.M. peak hour, ±138.72 trips during the weekday P.M. peak hour, and ±1596.55 total trips on a weekday. The Proposed Development's vehicular trips are not anticipated to cause any significant detrimental impacts on the adjacent roadways, however. The Proposed Development will have direct access to Turner Hill Road, a minor arterial roadway. *See Georgia Department of Transportation State Functional Classification Map.* This type of roadway is intended for higher volumes of traffic and currently handles 11,590 vehicular trips per day (refer to footnote 5). Consequently, it is anticipated to adequately accommodate the relatively minor amount of trips the Proposed Development is expected to generate.

Additionally, the proposed commercial use is non-residential and will have no impact on schools. Finally, utilities are available to serve the site.⁹

IV. PRESERVATION OF CONSTITUTIONAL RIGHTS

As agent for the owners of the property, the Applicant respectfully submits that the current zoning classification of the Subject Property established in the City of Stoncrest Zoning Ordinance, to the extent that it prohibits the proposed development, is unconstitutional, and constitutes an arbitrary, irrational abuse of discretion and unreasonable use of the zoning power because it bears no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harms the property owners in violation of the due process and equal protection rights of the property owner 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 I of the Constitution of the State of Georgia. Further, the failure to approve the rezoning would constitute a taking of the owner's private

⁹ The Applicant is requesting a sewer capacity certification letter for the Proposed Development which has not been received as of the date of this Letter of Intent.

property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

The Applicant also respectfully submits that the City Council's failure to approve the requested rezoning would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

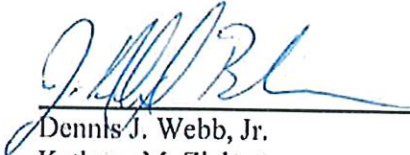
Opponents to this request, if any, lack standing; have failed to exhaust administrative remedies; and have waived their rights to appeal by failing to assert legal and constitutional objections.

VI. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the rezoning at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Stonecrest.

This 2nd day of August, 2022.

Respectfully submitted,



Dennis J. Webb, Jr.
Kathryn M. Zickert
J. Alexander Brock
Attorneys for Applicant