

CITY OF STONECREST, GEORGIA

Planning Commission Meeting Minutes

Summary

September 11, 2018, 6:00 P.M.

Stonecrest City Hall's Chambers | 3120 Stonecrest Blvd., Suite 155 | Stonecrest, Georgia 30038 |
(770) 224-0200 | www.stonecrestga.gov

The Planning Commission met on Tuesday, September 11, 2018 at 6:04 p.m. in Stonecrest City Hall's Chamber in Stonecrest, Georgia.

I. The meeting was called to order by the Chairman Eric Hubbard.

II. Roll Call - The Members

Present:

Mr. J.W. Eady	District 1
Ms. Wanda McNeal	District 2
Mr. Eric Hubbard	District 3
Ms. Pearl Hollis	District 4
Ms. Lisa Wright	District 5

Staff Present:

Mr. Michael Harris	City Manager
Mr. Tom Kurrie	City Attorney
Mr. Chris Wheeler	City Planner

Staff Absent:

Mrs. Nicole Dozier	Community Development Director
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The Chairman completed the roll call and read the Rules and Procedures for the Planning Commission Meetings and Public Hearings for the City of Stonecrest, Georgia. There was a quorum.

III. **Minutes:** The Chairman asked for motion to accept the Planning Commission Meetings Minutes Summary dated August 7, 2018. Commissioner Wright motion to approve the Planning Commission Meetings Minutes Summary dated August 7, 2018. Commissioner Eady seconded the motion. The motion was approved. The vote was unanimously carried.

IV. Old Business:

1. Public Hearing(s):

The following Petition(s) located within the city of Stonecrest were presented by City Planner Mr. Chris Wheeler.

TEXT AMENDMENT:

TMOD 18-0003

PETITIONER:

City Staff

PROPOSED AMENDMENT:

Amend IV, Table 4.1 Use Table as to the permitted locations of Short Term Vacation Rentals

Mr. Wheeler distributed a copy the Short Term Vacation Rental (STVR) Ordinance (see Attachment 1) to the Commissioners before reading the General Information out loud for the two Text Amendments (TMOD 18-0003 and TMOD 18-004).

Mr. Wheeler stated that TMOD 18-003 was previously heard and is being returned for reconsideration. This item was heard at the July 10, 2018 Planning Commission meeting and was recommended for approval. This item is the adoption of New Article 27 Short Term Vacation Rental (STVR) Ordinance, Amend IV, Table 4.1 Use Table to permit locations of STVR. City Council asked Staff to go back and look at definitive areas of zoning district's areas where STVR would be allowed instead of doing a Special Land Use Permit (SLUP). City Council issued to allow by rights.

And, TMOD 18-0004 provides supplemental regulations C and F. Staff reviewed both Regulations and decided to eliminate Regulation F. Regulation C and F seems to be redundant.

The Chairman asked if there were questions. There were none.

Mr. Wheeler advised the Commissioners that the Community Director want the Commissioners to know that the cases have been heard and said that there is no public hearing but, Staff decided to let the people speak tonight.

The Chairman asked those in opposition to come forth. There were three to come forth:

Ms. Michelle Battle came forth and stated she was a little confused and said, "Are you saying there is no public hearing?" Ms. Battle said she was here in opposition.

Per Attorney Kurrie, there is a public hearing.

1. Ms. Michelle Battle, Battle Law, LLC at One West Court Square, Decatur, Georgia 30030 stated she is representing Winston Nurss (?). Mr. Nurss (?) is the owner of an Air B&B in the city boundaries. Ms. Battle stated, "I have two things:

1) **A procedural issue:** "The announcement on this city's website fails to provide the full context of the Text Amendment. It shows the chart but, it does not show the other matter to which Chris referred for the elimination of Article, whatever that provision is, in F. So, to the best of our knowledge, the only thing that was coming up before you all, was the actual Use Table. So, I have no knowledge, no information, no anything with regards to Item F, that was just referenced. So, I do not know what that is. I ask from the perspective of notification, that there is an issue with that.

2) **The city's website announcement:** Concern with the districts in which the Short Term Vacation Rental would be allowed and looking at the chart, that has been presented. I am a little perplexed as to why all of the residential districts are not included in the allowed locations. When I went on both vacation rentals, BRBO as well as the Air B&B, those are the only two of voluminous numbers of vacation rental websites. There are forty (40) or more Air B&B and other facilities within the jurisdictional boundaries of the city of Stonecrest, from what I can tell. A lot of those are in areas that are zoned R85, R75, and RSM. I do not understand why those are not included as part of the areas you are trying to regulate.

It is not clear what happens to those individuals, because many of them are renting a room or some are doing the entire home. What happens to them, those who have already been operating for the last 1, 2, 3, 4 years or more? What happens to them? Are they grandfathered in? I don't know if they have notice to come to the city to obtain this special use permit. How that is going to be regulated because, everyday there is a new website popping up? So, who in the city is monitoring all the websites to determine whose got vacation rentals or who does not have vacation rentals?

Additionally, you cannot find the exact location without making a reservation. So, all it tells you that there is something in a geographical area. You do not know the actual address until you make the reservation. So, how do you regulate that? So, we are seeing here that you are asking for special use permits, it appears at least, based on this chart, verses simply making them permitted uses with regulations that govern, how they are to suppose function.

Because, again, I do not know how...you can't, to me, you cannot have a rule without a measure or way of regulating it. How are you going to regulate? Like I have said, when you got new websites popping up every day. The other thing is, there are certain districts, I am still trying to understand how R85, R75, R60, and RSM has been excluded. And, you did not include districts where you may have townhomes or apartments because, a lot of times, those who are leasing through these Short Term Rentals are in apartments or in townhomes, and you have both. You can have an apartment in the OMI and a townhome in the OIT district. So, why are those excluded, particularly when they are typically in less residential chartered areas?

So, I am asking that the Planning Commission to defer this or vote to amend the chart that is presented tonight. Which I think this is probably not where you want to go but, I am trying to understand 1) how this again is going to be infatuate; and 2) why the distinction in the districts, in terms of you allowing in R100. Which quite honestly, is the lese intense residential zoning district that you have, and you are keeping it out of the districts that have more density. Hopefully, someone can explain that component. The last point is, how are you going to enforce this? So, we would ask for this to be deferred, in order to give more opportunity for review of the chart and to make sure that all the regulations, you have been amending, be fully published."

2. *Submitted Public Comments Card:* Stonecrest resident Ms. Fay Coffield stated that she lives at 3261 Chaparral Way stated, "We are taking a small minute problem and it is being placed on everyone; it is unfair. My understanding is that Tucker has addressed this. There is a noise ordinance, cite the resident and give them the maximum charges, you fine them. Then you go after the owner. You cannot jack up your rate with B&Bs. It all breaks down to punishing those that are guilty. Find someone smoking reefers, lock them up. B&B facilities are good. We probably have a lot of people coming from Carolina (the recent hurricane in Florence) to Stonecrest; and there are laws, fines, and punishment which are very strict, deal with the law and let Dekalb County PD handle it. They are more than willing to handle."

Mr. Wheeler stated that for clarification Staff recommend permitted SLUP but, City Council recommended to allow "by right" in R100, MR-1, MU-1, and MU 2 districts instead of requiring a SLUP .

The Chairman restated Mr. Wheeler's explanation, "So, the city is asking them to be able to do it "by right" and not come to the Board for a SLUP permit, correct?

Mr. Wheeler stated, "Yes sir, we have been instructed by City Council to make it "by right."

Commissioner Wright asked, "Can we address the classifications and why they chose certain ones and omitted other ones?"

Mr. Wheeler stated, "I cannot speak on intent as to why the Director and legal decided those areas would be. I assume due do to certain complaints, that Code Enforcement may have received, this may be the better overall place for Air B&Bs. Other than that, I cannot explain why they chose those zoning districts."

Commissioner Wright asked, "Do we have demographics on the numbers of Air B&Bs?" Mr. Wheeler stated, "Currently we do not have a number of how many Air B&Bs that are in the city. As the person spoke earlier, we do not know until we actual select a room and they will give you the actual address. There is a vague number of how many are located in the city. We do not have a conclusive number to how many are located in the city. One other thing, we are requiring them to get a business license."

Commissioner Wright asked, "What response did you get?"

Mr. Wheeler stated, "I am not sure what those responses are so far. Have not received those emails. The Air B&Bs have been operating without business licenses. Right now, we have no regulations to determine for them to come to the city to actual operate. Therefore, they are basically violating zoning for running a business in a residential area. That is the assumption we have right now."

Commissioner Wright asked, "Have they addressed the noise complaints or is that something in the past or are trying to curtail or something still going on that you are aware?" Mr. Wheeler stated that he will leave that to the City Manager Mr. Michael Harris to answer that part.

City Manager Mr. Michael Harris stated that, "For the complaints been received by the city, we have been working in conjunction with DeKalb County PD. There have been a number of sites we have gotten and know there have been repeated instances. We have been able to coordinate with DeKalb County PD to steps in and alleviate those issues. We have Code Enforcement Officers working with DeKalb County PD that constantly monitor websites to find out what is coming up, and that have been advertised. We have contacted the occupants and property owners to let them know this is not allowable. In many cases, the owners are not aware this was happening.

There is communication with the Code Enforcement staff, Community Development staff, and DeKalb County PD to identify where problem areas are to communicate activities and shut them down. They have been working on some we know in certain locations. We target those first and reach out to the property owners. In some instances, they have been brought to municipal court if they are cited and warranted that. We have/are aggressively looking out...trying to go out and address the nuisance part. We certainly see the benefit of having Air B&Bs within the community so long as it is in the manner they were intended. We are using DeKalb County to address the nuisance part of the issue.

When we have cases where people are utilizing Air B&Bs for party houses, we are stepping in and working with the DeKalb County PD to prevent those type things. To Mr. Wheeler's point, our goals right now is to put restrictions and guidelines in placed so people can have a clear understanding of what the expectations are, what they can and cannot do and requiring a business license, so we know where they are located."

Attorney Kurrie interrupted Mr. Harris and addressed the Chairman. Attorney Kurrie

stated, "Chairman Hubbard, we still have not heard if there is anybody for this? We have not completed our public hearing. These questions are fine but, really should be done after the public hearing."

The Chairman replied, "The people for it was the city and there was no one else who wanted to speak."

Attorney Kurrie clarified, "There was nobody out there for it? Okay, okay."

Commissioner Wright stated, "She raised her hand."

The Chairman replied, "I did not see them earlier."

The Chairman replied, "Did not see them earlier when asked."

3. *Submitted Public Comments Card:* Stonecrest resident Ms. Brenda Herman lives at 7744 Holly Berry Terrace, Stonecrest, Georgia. Ms. Herman read from a letter she sent to Councilman Jimmy Clanton regarding concerns that the proposed ordinances does not address.

Ms. Herman stated that investors, whose sole purpose is to purchase homes to rent, was not addressed. They are not necessarily leasing to the same guest of less of thirty (30) days. It is Ms. Herman's understanding that the city is modeling their ordinances for STVR by the one adopted by Sandy Springs. Ms. Herman stated that she went to Sandy Springs and Savannah's ordinance and did a comparison. Ms. Herman stated that she strongly believes Stonecrest is on the right track and the resident of Stonecrest would benefit from an ordinance similar to these but, is restricted in language. Ms. Herman suggested to the Commissioners and Staff to revisit Sandy Springs' ordinance as they are more restrictive in language and I ask you to consider reading Savannah's ordinances.

Ms. Herman spoke on the benefit of non-owner occupied properties. Consider adding:

- 1) Add definition for owner occupied property, followed by adding definition for non-owner occupied property and if that a non-owner occupied is or not prohibited in the area;
- 2) Place a limit - on the number on properties an owner occupied / non-owner occupied Can use on STVR;
- 3) Place a limit - on the number of adults, per bedroom; particularly important – many STVR are counting the number of beds (the regular and blow-up mattresses in a basement) that a home can accommodate; this is how a 5-bedroom can house up to 30 overnight guests;
- 4) Inspect each building / fire code for compliance;
- 5) HOA – If the property the owner must show a copy that STVR is prohibited;
- 6) Tax responsibilities; and
- 7) Denial or suspension

Ms. Herman stated, "So, with all these in mind, would you consider pulling out the pertinent information from the SLUP form you said they need to fill out and include it in the body of your regulations. I believe, this is what makes the Savannah, Georgia ordinance so comprehensive. By having the requirements, get put owners on notice; what is required beforehand; and make the process of obtaining the permit. Can code enforcement and tracking of the will be referenced in the ordinance. I believe in the ordinance but, I just do not think, they are not comprehensive, way too vague."

The Chairman asked Ms. Herman if she got an answer from the letter.

Ms. Herman replied, "Yes. There is an Air B&B right on the next street. And I have only been living there a year and half. After I moved in, found out about Air B&Bs. Out of thirty (30) days, probably observed activities at least twenty (20) of those days. I have gone out and pretended to book. So many people in that house. I thought I did my homework before I moved there. Now, I have to decide, whether I want to go down that street to get out of the subdivision because of activities. They had charter buses come into the subdivision. The primary occupant does not live in the house. I am opposed to the Short Term Rental Ordinance, TMOD 18-003, it is too vague. If you are to have it, need restrictions, and not penalize the homeowner. The ordinances need to be more comprehensive and you should consider reading the Savannah's ordinance. Can you address the tracking of these? There are blow up mattresses used in basement and it is really frustrating. My concern is investors coming in buying the properties."

The Chairman stated he had a question for Ms. Herman, "So, even though you said you were for it but, it sounds like not for that one?"

Ms. Herman stated, "I say I am for it because I know it is going to happen. What city does not have it? I know, in reality, it is going to happen. No one what it in the neighborhood. It needs to be very specific so there is no misunderstanding...if you are an investor, then there is no misunderstanding as to what you can or cannot do. And, think if it is very detailed and then it is not vague. I can interrupt one way and you will interrupt it completely differently."

The Chairman stated, "I hear you saying, maybe I am wrong, this is too vague. And I really don't like this text amendment. Because, what we do is recommend. We cannot change or say we will add what your suggestions are. It like "As-Is." Buying a car "As-Is" this is the text amendment. Are you for this text amendment "As-Is?"

Ms. Herman stated, "No. No. I am not...the way the ordinance reads today for Stonecrest. No, I feel like it is too vague. I was using Savannah, Georgia as an example."

The Chairman stated, "I so you are not for the text amendment?"

Commissioner Wright stated, "As written."

Ms. Herman stated, "As written, right."

The Chairman stated, "But you stood up! He said, there are a couple of people that is for it and they have not spoke yet. Then you said, that you really is not for it and this is why, because, it is not written like Air B&B, regulation that has to do with Savannah or Sandy Springs. That is all. I am just trying to get clarification. No harm...not throwing stones. Ms. Herman replied, "Oh no, no, no!"

The Chairman continued and stated, "It is good you voiced your opinion because, you said you wrote your Councilman and that is why I am asking if you got a reply back to that suggestion?"

Commissioner Wright asked, "Have you ever report that and has there been noise?"

Ms. Herman replied, "Yes, oh heaven yes. Oh, heaven yes. We send numerous emails to Mr. Ferrell and police. Yes, yes."

Commissioner Wright asked, "Did the cops come?"

Ms. Herman replied, "Oh yes, yes."

Commissioner Hollis asked, "Are you an officer in your HOA at your subdivision?"

Ms. Herman replied, "No, no, I am not."

Attorney Kurrie asked the Chairman. "Do you want to the closed the public hearing?"

The Chairman stated that the time was out and closed the public hearing.

Attorney Kurrie asked the Chairman if he may make a coupled of comments. The Chairman acknowledged Attorney Kurrie.

Attorney Kurrie stated, "Ms. Battle came up and was objecting that the change to the text had not be properly published. She was correct, it was not published. However, the amendment actual was to really clarify nothing more by a deletion. Which you have in front of you, make sure there will never be no more than two-person in the bedroom, in any house.

So, that is really what is there. That could have been done by Council without having brought it back to the Planning Commission, is the point I am trying to make. The reason it came back to the Planning Commission was because, of the actual permitting process was the real issue that was there; and bringing it back and saying whether or not it should come up with a SLUP or should it be a permit "by right?" The direction by Council indicated that it would be a direction "by right."

If I am not incorrect, under the current table, these were the actual zones that had been there originally and that there is no change in what was delivered by the Planning Commission the last time before it came back here. So, really the issues that is before you are: 1). Say yes, that you can recommend these amendments to the text, however, or 2). Can recommend done by permitted "by right." Then if in your opinion, after listening to Ms. Battle, you think why should we limited it to these others R85, R75, or R60, make the recommendation. If not, do not make it.

Finally, this thing will always be an ordinance and will always require tweaking. The principal purpose of the ordinance is to eliminate the issues that we just heard from the last speaker. If you have a 5-bedroom house, and the maximum number of people that you can put in a house, is a family of the ten (10). None of these are for anything like that. If the bedroom is not big enough, you can only have one-person. Enforcement will always going to be the issue. Because, there is going to be people that are going to be a nuisance or whatever.

Ms. Coffield is correct, it has to be done through our ability to enforce it. What this ordinance does is enforce it. If you wish to defer it, then we will have to do this for another month. If you do recommend deferral, then it will be heard by Council at the next month. We need an ordinance on the books and think that is what the Council wants, "by rights."

The Chairman asked the Commissioners for questions and discussion.

Commissioner Hollis stated, "There seen to be some discussion from the audience about utilizing the police department for some of this oversight as opposes to having additional restrictions. Also, concern with bus coming into a HOA subdivision with thirty (30) people within one house. That is a concern. Also, the clarification from the County is that the Commissioners are trying to get a point to come up with a law regarding the ordinance."

Attorney Kurrie stated that, "Everything we have talked about in this ordinance, that is here, and the ordinance is very lengthy. Is still not been passed by the City Council. So,

once we have an ordinance and have a law on our books. Then we will be able to enforce. So, that is where the staff part is. Plus, we will be able to require them to get a business license. And that way, you know, keep a track of what they are. Certainly, go on the website, see who is out there, and try to determine if those people have come in to register or not, that is part of it. If there is somebody today in one of these districts that are not permitted, then "by right," they can continue doing what they are doing. Because, you can't, where there not been such zoning, you can't zone out what they are using it for today."

The Chairman asked Attorney Kurrie, "When the county regulated this, was there any regulations when the County was over in this area?"

Attorney Kurrie stated, "Well, I have not really determined what the County's ordinances were. But, my experiences is that they had not been, if they were. Certainly, if there were nuisances, in a violation of the law, which a nuisance would be and a noise would be. Obviously, there was no enforcement. Part of a new city is, as it grows will deal with these issues...DeKalb County PD was not as robust as what the citizen wants."

Chairman asked, "Looking at, in Stonecrest we still utilize DeKalb County as our law agency...where we are in in Stonecrest, we have a lot of the Filming taking place here. A lot of the film companies uses Air B&Bs. Green Leaf is filmed at New Birth and Fast and the Fiery was filmed here. And, the people stay here...the half point...Air B&B is big business and I understand what the young lady said, "I want Air B&B but, not in my neighborhood because, I cannot get out my neighborhood." I understand that. What the Council what is to get an ordinance on the books so, we can regulate...there are going to be some parties and ...you can set up some parameters...; let go for a motion and take it from there so, we can move on to the rest of the meeting. We have heard the city's proposals, we heard the oppositions...what say ye, Commissioners?"

The Chairman and Commissioners went into discussions.

Commissioner Hollis stated, "Well, I think it is important that we get some type of ordinance on the books. Such that it can be some kind of oversight so, that there can be some regulations with respect to how they operate."

Commissioner McNeal stated, "I agree with that as well. Because, that is an aspect to how to monitor the business licenses and see whose is in compliance. As of right now, you cannot do that because, we have no way to monitor that at this point. I guess modifications can be made, and will, I guest, be made accordingly, as we move forward in that area."

Commissioner Eady stated, "We just need to put something in place. We have nothing in place at the present time. We need to put something in place. As one of the people came up and talked about what is happening. It is happening in my area as well, blocking traffic so forth. But, we need to put something in place so, we can monitor it."

Commissioner Wright stated, "I see the need for putting an ordinance in place. And I also see the need for doing it right and not have to revisit over, and over again, and over again. Because they are raising concerns that have not been addressed different. The issue is mainly in enforcement and we will have to amend again. My concern is that we are rushing to get something done and will have to amend, and amend over, and over

again.”

Attorney Kurrie interjected, “Yes ma’am! You will have to amend. It will happen. Savannah has had 300 years to deal with that type of stuff and we are just in the first.”

Commissioner Wright continued and stated, “So, we might as well make it happen.”

Mr. Wheeler asked the Chairman to close the Public Hearing.

The Chairman closed the public hearing asked for a motion.

Commissioner Wright motion to approve TMOD 18-0003, Use Table 4.1 “Permitted by Right” and Amend R85, R75, R60, RSM, OI, OIT, MU-1, and MU-2. Commissioner Hollis seconded the motion to approve TMOD 18-0003. The motion was unanimously passed.

TEXT AMENDMENT:	TMOD 18-0004
PETITIONER:	City Staff
PROPOSED AMENDMENT:	Amend Article IV, Section 4.2.5.8 to provide supplemental regulations for Short Term Vacation Rentals (STVR)

Mr. Wheeler read from the STVR Ordinance, the language in the highlighted sections, Line 41-C to Line 46 and Line 52-F to Line 56. Mr. Wheeler stated that MOD 18-0004 is to Amend Article IV, Section 4.2.5.8 to provide supplemental regulations for Short Term Vacation Rentals (STVR). This item was heard at the July 10, 2018 Planning Commission meeting and was recommended for approval.

The Chairman closed Public Hearing TMOD 18-0004.

The Chairman asked for a motion for TMOD 18-0004. Commissioner Hollis motion to approve TMOD 18-0004 and amend according to regulation “F” to be deleted. Commissioner Wright seconded the motion to approve TMOD 18-0004. The motion was unanimously passed.

IV. New Business:

1. Public Hearing(s):

The following Petition(s) located within the city of Stonecrest were presented by City Planner Mr. Chris Wheeler.

LAND USE PETITION:	SLUP-18-005
PETITIONER:	Riva Usher
LOCATION:	6617 Eastbriar Drive
CURRENT ZONING:	RSM (Small Lot Residential Mix) District
PROPOSED DEVELOPMENT:	Request for Special Land Use Permit to operate child day care facility for 4 to 6 infants.

Mr. Wheeler read the Staff Report out loud and stated that the applicant is requesting a Special Land Use Permit to operate a child day care facility for 4 to 6 infants. Mr. Wheeler apologized for the wrong zoning and stated the RSM (small lot/residential) is the correct zoning. Eastbriar

Drive is part of Phillips Creek's subdivision. A 5000' sf...the applicant's hours of operation is 6PM to 6AM and Ms. Usher is the only employee of the business. Staff recommend approval of SLUP 18-005 with the following conditions:

1. The applicant must apply for a business license as required by the city of Stonecrest.
2. The applicant must comply with the requirements of Sec. 4.2.19 – Child Day Care facility of the Stonecrest zoning ordinance.
3. Pick up and drop off children must not interfere with the traffic patterns of residents leaving for work and returning to the area.

Mr. Wheeler asked if there were questions. There were none.

The Chairman asked the applicant to come forth.

Ms. Usher stated that the purpose is to bring a family day care that will be operated from her personal home. This will be evening care and drop off is 6PM and pick up is at 6AM. Off-peak office hours that will not be any interruption with normal traffic, a 30 minutes window. No, the area and that the drop-off and pick-up time will not interfere with the normal traffic flow of traffic. Ms. Usher stated that her personal credentials will include a bachelor's degree in business administration and a minor in marketing, and an Early Childhood Certification. The main reasons to bring a day care to area is the cost of day care. Research state that the average cost for child care is \$7644 yearly per child and my goal is bringing affordable and convenience child care to the area

The Chairman asked those in support to come forth. There were none.

The Chairman asked those in opposition to come forth.

1. *Submitted Public Comments Card:* Stonecrest resident Ms. Carla Catalon-Scott stated that she lives at 6487 Eastbriar Drive. This is on a main street in a sub-division and connect to Laura Post and Phillips Creek Subdivision. Ms. Scott stated the she has safety concerns. There are, a great many, number of cars parked, on both sides of the street...at all times. Concern that children of 2 to-6 years of age, dotting out in front of car. I would hate to be the person to run over a child. It is a small tight-fit area. I do have that safety concern, concern about possible noise in the area and other neighbors close by.
2. Ms. Smith, HOA, stated they have tremendous problems with them and Officer Kirkland has done a great job. We are trying to get these people to apply for license. The fence needs fixing. The area is a cul-de-sac; Just go by the rules and regulations. We are concerned with the congestion right at the street. They will have to go through the HOA first...do not think this is a good idea. I heard her say, you say 5000' sf but, the traffic is so bad, and DeKalb Code Enforcement Officer Kirkland has written citations. Do have enough room to open up day care and personal care homes... this lady is a good lady. They have fleas and tick issue, in the yard. Too much congestion, do not have enough room to park. It is too small and congested. We have concerns regarding congestion; and is opposed. H
3. Mr. John Kemp(?) strongly opposed; has concerns with traffic; and children getting off school buses. This is going to be a hazard to the children.

With minutes remaining Ms. Usher returned to the podium for closing argument, "the drop offs are at 6PM and not have to worry about the kids dotting out in the streets. The parents will escort the infants; the fence will be repaired; cars will not be permanent in the yard. Kids not getting off the bus and I don't see major a problem."

Commissioner Wright asked, "How would you accommodate the through traffic while people are dropping off at your home?"

Ms. Usher replied, "They would be able to pull into my driveway, my yard. I would have different time slots/specific times to pick-up and drop-off; I would have a window for parents to drop-off and pick-up."

The Chairman closed Public Hearing SLUP 18-005 before the Commissioners went into the discussion.

The Chairman summarized and stated, "I have heard the applicant's presentation and why she should operate a day care for 4-6 infants in her house. The discussion I heard from the opposition was not about the applicant but, dealing with the community; people in the past; dogs had ticks/fleas; traffic on the streets now; but, that does not reflect on the applicant who wants to open a day care.

I do not see the parents of the infants hanging-out all day. They will be at work. The parents want an affordable day care. Everything she has done is lawful. Staff has recommended approval and put the conditions up. The State has regulations for day care centers. They are paying an application fee to the City; and she will be in compliance. Lawfully, what is there that say you cannot have a day care?

I do not want to be dramatic, we take everyone seriously, and I appreciate everyone coming down voicing your opinion. For the growth of the community and growth of the city, we must look at what is in the best interest for the city. This is not a person who is saying, "I want to throw parties every week" and have 30 to 40 people on the streets. This an applicant offering an affordable day care and a person trying to make a living. My feelings on this is that we should recommend to City Council to approve."

Commissioners Hollis agreed with the Chairman and stated that it seen the major concern was the group home that had cars parked and did not affect the applicant.

Commissioners McNeal's concern is the same, as the citizens, there is only one entrance into the subdivision. If there was another way in and out; one way in and out impacts the citizens.

Commissioners Eady stated that these are infants and the hours she is talking about is from 6PM and 6PM. Should not affect anybody else. The traffic in the community itself is not her problem.

Commissioners McNeal stated that the traffic is always a concern. There is only one entrance into the subdivision. If there was another way in and out; one way in and out impacts the citizens.

Commissioners Hollis said that the citizens indicated they are working with their HOA to get things cleared.

Commissioner Wright stated that is a process.

Commissioners McNeal said it was a tight fit area and if there was another way in and out, was concerned the impact the citizens

Mr. Wheeler interjected and advised Commissioners that there are three (3) ways to enter in and out of the subdivision.

The Chairman thanked Mr. Wheeler for the additional information and added that the parents will not be there for hours.

The Chairman asked for a motion for SLUP 18-005. Commissioner Hollis motion to approve SLUP 18-005 with conditions. The vote was 03-to-02. Commissioners Hubbard, Hollis, and Eady voted to approve SLUP 18-005 with conditions. Commissioners McNeal and Wright voted against SLUP 18-005. The motion passed.

LAND USE PETITION:	AX 18-0001 (Deferred)
PETITIONER:	Halpern Enterprises
LOCATION:	6024 Covington Highway
CURRENT ZONING:	MU-5 (Mixed Use) / C-1 (Local Commercial)
PROPOSED:	Request to annex the western portion of this parcel into the City of Stonecrest and change the zoning of the subject property from C-1 w/conditions and MU-5 to MR-2 to build a 160 townhomes subdivision.

Mr. Wheeler read the Staff Report out loud and stated that the applicant is requesting to annex the western portion of this parcel into the city of Stonecrest and change the zoning of the subject property from C-1 with conditions and MU-5 to MR-2 to build a 170 townhomes subdivision.

The **Standards of Review** shows that the zoning proposal is in conformity with policies; will permit use suitable to the development of the adjacent and nearby properties; has a reasonable economic use as currently zoned; will not adversely affect the existing use or usability of the adjacent or nearby properties. The approval will move the entire site into the city of Stonecrest limits. There are six (6) prior zoning cases with several DeKalb County conditions that are applicable to this property. The conditions have been reviewed and modified for this current proposal. This use will not adversely affect any historic buildings, sites, districts, or archaeological resources; will not result in excessive or burdensome use of transportation facilities, utilities, or schools; and will not adversely impact the environment or surrounding natural resources in the city of Stonecrest.

The **Analysis** shows that the site is in the I-20 Overlay District Tier #2 and allows medium-intensity residential units in a mixed-use development project. The surrounding properties are a combination of uses that are currently permitted on this split zoned site. The site is currently undeveloped with access to Panola Road and Covington Highway.

Staff recommended approval of AX 18-0001 to annex 11.63 acres into the city and rezone the property to MU-5 (Mixed-Use High density) with the following conditions:

1. An opaque 8' fence shall be installed along the interior of the eastern boundary of the subject property adjacent to residential zoning.
2. The front and sides of the buildings shall predominantly consist of brick. The townhomes shall adhere to Section 5.7.6 - Single Family Attached buildings.
3. The following uses shall not be permitted on this property: self-storage or mini warehouses, liquor and or package stores, pawn shops, pool hall and sports bar, adult entertainment, or bookstores etc., check cashing, nightclubs skating rink, indoor and outdoor recreation.

4. For the commercial portion of the site to the southern part of the property:
 - a. Orientation of the building entrances shall be along Covington Highway and are subject to GDOT approval.
 - b. Provide pedestrian connectivity to the residential development.
 - c. Screen parking area along Covington Highway with a continuous hedge not to exceed three (3) feet in height.
 - d. Provide outside trash receptacles for patrons.
 - e. Screen roof-top equipment.
 - f. All lighting used in this portion shall be high pressure sodium design and have a controlled foot print to minimize glare to adjacent residential properties.
5. Monument signage shall be used for this project and shall contain brick.
6. All refuse areas shall be located to the rear of the site and screened with an enclosure of similar building material to match the primary structures.
7. The development shall be limited to one (1) full access driveway and one (1) right in /right out only driveway on Panola Road. The location of said entrances are dependent on adequate spacing and sight distance, and subject to the approval of the Stonecrest City Engineer.
8. Owner/Developer shall construct a deceleration lane at the site entrances on Panola Road, subject to the approval of the Stonecrest City Engineer.
9. Owner/Developer shall install five foot (5') wide ADA compliant sidewalks along the entire frontage of Panola Road.
10. Owner/Developer shall install five foot (5') wide ADA compliant sidewalks along both sides of all internal streets.
11. Proposed private streets shall be constructed to public standards.
12. A minimum of twenty-foot (20') setback is required from the back of sidewalk to the face of structure in order to accommodate a parked vehicle in the driveway.
13. Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition.
14. Owner/Developer shall comply with the City of Stonecrest Tree Protection Ordinance concerning tree protection and replacement. A minimum on-site tree density of fifteen (15) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree replacement units as required in the ordinance.
15. Water and sewer approval is required by the DeKalb County Department of Watershed Management.

The Chairman asked the applicant to come forth.

Representing the applicant, Ms. Michelle Battle from Battle Law LLC came forth and distributed a six-page handout, "*Proposed Conditions For 6024 Covington Highway, Rezoning to MR-2*" to the Planning Commissioners and Staff (see **Attachment 2**). Ms. Battle stated that 6024 was once a single parcel in the city and unfortunately, they sliced it to be developed and must rezone the property from MR-2 back to C-1.

The Chairman asked those in support to come forth. There were none.

The Chairman asked those in opposition to come forth. There were three to come forth:

1. *Submitted Public Comments Card*: Mr. Bernard Knight's address is PO Box 29156 came forth but was in opposition. Mr. Knight stated that his concern was in the way the Staff Report was presented. This property is not in I-20 Overlay and that portion of the site is in DeKalb County and Hidden Hills. Mr. Knight asked how did this happen?
2. *Submitted Public Comments Card*: Ms. Jan Costello stated that she lives at 1813 S. Hidden Hills Parkway, Stone Mountain, GA and is affiliated with the Greater Hidden Hills Community Development Corporation. Ms. Costello is not a Stonecrest resident nor is she a business owner in the city of Stonecrest. Ms. Costello stated that in 2000, ARC got involved and created the Overlay Code. It was put into law, the best practices were used, and the codes we have are better than Stonecrest. Ms. Costello is opposed to the conditions to be presented.
3. *Submitted Public Comments Card*: Ms. Rose Stewart stated that she lives at 2093 County Down Lane, Stone Mountain, GA 30088 and is affiliated with the Scarborough Square Subdivision. Ms. Stewart is opposed to AX 18-0001.

The Chairman closed Public Hearing AX 18-0001 before the Commissioners went into discussion.

The Chairman asked for motion for AX 18-0001. Commissioner Hollis motion to approve AX 18-0001 with Staff recommendations and the Proposed Conditions For 6024 Covington Highway, Rezoning to MR-2 and changes (see **Attachment 2**). The Commissioner Wright seconded the motion. The motion was approved. The vote was unanimously carried.

V. Adjournment

There being no further business, Commissioner Eady moved to adjourn. Commissioner Wright seconded the motion. The vote was carried unanimously to adjourn the meeting at 8:37 p.m.

Approved:

Gracie G. Hubbard
Chairman

10-9-18
Date

Attest:

Lillian Lowe
Secretary

10-9-18
Date

ATTACHMENT 1

Submitted by
Chris Wheeler, City Planner

STVR (Short Term Vacation Rental)
Ordinance 2018
State of Georgia, County of DeKalb
City of Stonecrest

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA,
AMENDING CHAPTER 27, ARTICLE IV ADDING SUPPLEMENTAL USE
REGULATIONS FOR SHORT TERM VACATION RENTALS**

WHEREAS, the City of Stonecrest is authorized to exercise the power of zoning Ga. Const. Art. IX, Section II, ¶ IV, Ga. Const. Art. IX, Section II, ¶¶ I and III, Official Code of Georgia Annotated (O.C.G.A.) § 36-66-1 et seq., the City's Charter, the City's general police powers, and by other powers and authority provided by federal, state and local laws applicable hereto; and

WHEREAS, the City of Stonecrest continues to exercise its zoning powers to provide comprehensive city planning and ensure a safe, healthy, and aesthetically pleasing community; and

WHEREAS, as the City of Stonecrest experiences growth and gains knowledge through the exercise of these powers, it is necessary to and, amend, and/or remove certain requirements in the Zoning Ordinance; and

WHEREAS, the City of Stonecrest recognizes necessity of implementing regulations which protect the health, safety and welfare of its citizens as well as tourists in the city who choose alternative accommodations, such as Short Term Vacation Rentals.

WHEREAS, the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*, provides statutory requirements which must be met by a local government to enact zoning ordinances and make zoning decisions, including, requiring publication of notice and public hearing prior to the enactment of zoning ordinances;

WHEREAS, the City of Stonecrest has advertised and held public hearings on _____ and _____ on the adoption of the amendment to Chapter 27, Article IV.

WHEREAS, this Ordinance seeks to regulate Short Term Vacation Rentals through its substantial zoning powers to ensure a safe, healthy, and aesthetically pleasing community for the citizens and visitors of the City of Stonecrest, Georgia.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding Chapter 27, Article IV, Section 4.2.58 – Short Term Vacation Rental, which reads as follows:

4.2.58 – Short Term Vacation Rental

The following applies to all Short Term Vacation Rentals ("STVR"):

A. No individual renting the property shall stay for longer than 30 consecutive days.

- B. The STVR shall not be operated in such a way as to change the residential character of the neighborhood in which it is located and shall comply with the noise ordinance.
- C. In every dwelling of two (2) or more rooms, every room occupied for sleeping purposes by one (1) occupant shall contain not less than 70 square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) additional square feet of floor area. Maximum occupancy limits for any overnight guests must not exceed two guests for every bedroom located in the STVR.
- D. Every bedroom shall have a window facing directly and opening to the outdoors.
- E. Every bedroom shall have access to not less than one water closet and lavatory without passing through another bedroom. Every bedroom in an STVR shall have access to not less than one water closet and lavatory located in the same story as the bedroom or an adjacent story.
- F. Maximum occupancy for an STVR at any point in time shall not exceed the occupancy as determined by one person per every one hundred and fifty (150) square feet of floor area for the first occupant thereof and at least one hundred (100) additional square feet of floor area per additional occupant, or the occupancy limits set by the fire code adopted by the City, whichever is less.
- G. There shall also be provided at least one (1) off-street parking space for each bedroom used as a part of the STVR.
- H. No signs or advertising are permitted to identify or advertise the existence of the STVR, beyond those otherwise allowed for the residential property.
- I. All STVR units shall be furnished with a telephone that is connected to a landline or similar type connection, including a voice over internet protocol, in order that 911 dispatch may be able to readily identify the address and/or location from where the call is made when dialed.
- J. A diagram depicting two evacuation routes shall be posted on or immediately adjacent to every required egress door.
- K. No individual renting a STVR shall use the STVR for a special event, party, or temporary outdoor event. No owner or operator of a STVR shall permit a STVR to be used for a special event, party, or temporary event.
- L. It shall be unlawful to establish, operate, or cause to be operated a STVR in the city within 500 feet of another STVR, bed and breakfast, boarding house, Home stay bed and breakfast residence, hotel/motel, hotel/motel extended stay, personal care home, or child caring institutions. Measurements for this subsection shall be made in a straight line without regard to intervening structures or objects, between the closest points on the property lines of the two uses.

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 2018.

Approved:

Jason Lary, Sr., Mayor

As to form:

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-_____

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122 Attest:

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126 Brenda James, City Clerk

City Attorney

ATTACHMENT 2

Submitted by
Michelle Battle, Battle Law LLC

Proposed Conditions For 6024 Covington Highway
Rezoning to MR-2

Proposed Conditions For 6024 Covington Highway

Rezoning to MR-2

1. The Subject Property shall be developed for no more than 170 single family attached townhome units in substantial conformity with the Site Zoning Plan for Rocklyn Homes dated May 23, 2018, submitted to the City of Stonecrest Planning Department on July 13, 2018.
2. An opaque 8-foot wooden fence shall be installed along the exterior boundary lines of the Subject Property adjacent to all residentially zoned property. The use of barbed wire, or razor wire shall be strictly prohibited. Additionally, chain-link fencing shall only be permitted around the perimeter of the detention pond and shall be screen from view from all public and private streets.
3. The front façades of the townhomes shall consist of a minimum of 50% brick and/or stone. Hardi-plank siding is permitted on all sides. Architectural accents, where utilized, shall consist of non-reflective glass, glass block, brick, natural stone, terra cotta, stucco or wood. The use of vinyl siding on any façade of the townhomes is strictly prohibited.
4. Only brick monument signage shall be permitted.
5. The development shall be limited to one (1) full access driveway and one (1) right in/right out only driveway on Panola Road. The location of said entrances are dependent on adequate spacing and sight distance, and subject to the approval of the Stonecrest City Engineer.
6. Owner/Developer shall construct a deceleration lane at the full access entrance on Panola Road, subject to the approval of the Stonecrest City Engineer.
7. Sidewalks shall be installed by the Owner/Developer along all frontage of the Subject Property on Panola Road. The sidewalk shall be located five (5) feet from the curb and shall be ten (10) feet in width. The five-foot zone adjacent to the curb shall be the street tree-planting zone. In blocks where there are overhead utility lines, the Stonecrest City Engineer may authorize a two-foot planting zone from the curb with the five-foot tree-planting zone to be located at the sidewalk.
8. Owner/Developer shall install five (5) foot ADA compliant sidewalks along both sides of all internal streets/driveways. If the pathway crosses a driveway or internal street, it shall be clearly marked with striping, pavers, or a raised crosswalk.
9. All proposed private streets shall be constructed to City of Stonecrest public street standards.
10. A minimum twenty-foot (20) setback is required from the back of sidewalk to the garage door to accommodate a parked vehicle in the driveway.
11. Owner/Developer shall provide detention, water quality and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition.

12. Owner/Developer shall comply with the City of Stonecrest Tree Protection Ordinance concerning tree protection and replacement. A minimum on-site tree density of fifteen (15) units/acre shall be required. Any specimen trees remove during the redevelopment shall require additional tree replacement units as required in the ordinance.

13. Water and sewer approval are required by the DeKalb County Department of Watershed Management.

14. The townhome units shall not exceed 3 stories or 45 ft in height.

15. The use of the Subject Property for any of the following shall be strictly prohibited:

- a. Convenience Store;
- b. Child day care center and/or kindergarten;
- c. Blood collection center;
- d. Check cashing establishment to include automobile title loan and pay day loan establishment;
- e. Gold-Buying establishment;
- f. Heavy truck and equipment and materials storage;
- g. Outdoor open flea market;
- h. Truck Stop and terminal;
- i. Automobiles, boats and trailers new and used sales;
- j. Funeral home and/or crematory;
- k. Fraternity or sorority house;
- l. Boarding or rooming house;
- m. Self-storage or mini warehouses;
- n. Liquor and/or package stores;
- o. Pawn shops;
- p. Pool hall and/or sports bar;
- q. Adult Entertainment or bookstores, etc.;
- r. Nightclub;
- s. Skating rink; and
- t. indoor and/or outdoor recreation.







