



## **ZONING BOARD OF APPEALS STAFF REPORT**

### **Zoning Board of Appeals Public Hearing September 16, 2025**

<b>PETITION NUMBER:</b>	V25-000005
<b>APPLICANT:</b>	Parkland Communities Inc. c/o Battle Law PC
<b>OWNER:</b>	Parkland Communities Inc.
<b>PROJECT LOCATION:</b>	3810 Evans Mill Road <a href="#"><u>16 076 02 002</u></a>
<b>CURRENT ZONING:</b>	R-100 Residential Med Lot
<b>ACREAGE:</b>	+/-48.54
<b>STAFF RECOMMENDATION:</b>	Denial
<b>VARIANCE REQUEST:</b>	The Applicant is seeking to reduce the number of access points from four (4) points of access to two (2) points of access.

#### **Current Use**

The subject property is currently vacant and consists of 48.54 acres that is zoned R-100. The subject property abuts both Hunters Hill and Bramblewood Subdivisions. The subject property has an address of 3810 Evans Mill Road, however it does not have direct access or touches Evans Mill. This property has a parcel number 16 076 02 002 and has floodplain present in addition to 3 streams. The request is to reduce the number of access points from 4 to 2 in order to develop the property for 47 single-family detached homes. The were seeking to build at 2.06 units per acre, excluding 50.217 acres of floodplain existing on the property.

#### **Zoning and Case History**

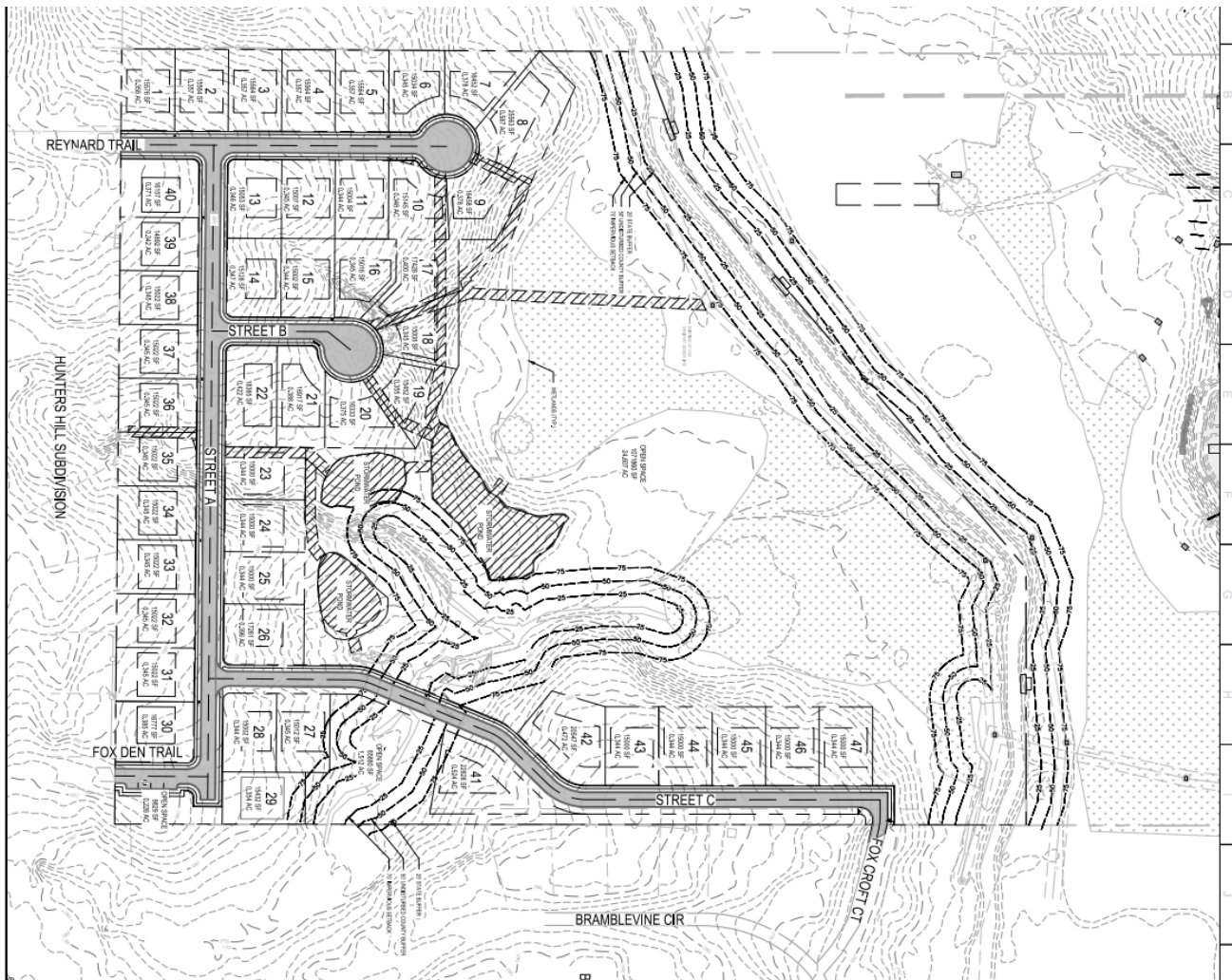
The subject property has no prior zoning conditions found. It's zoned R-100 Residential Medium Lot and the surrounding properties are zoned R-100 Medium Lot. In 2020 as part of rezoning request RZ20-005 the applicant was seeking to acquire and develop 178.10 acres of land located at 3810 Evans Mill Road and 6251 Rock Springs Road. The applicant was seeking to build at 2.06 units per acre, excluding 50.217 acres of floodplain existing on the property. This request proposed 367 homes, which included 3810 Evans Mill Road and according to the applicant, the property has both floodplain and wetlands. The proposal was to develop small lots to preserve as much of the surrounding environmentally sensitive areas.





## ZONING BOARD OF APPEALS STAFF REPORT

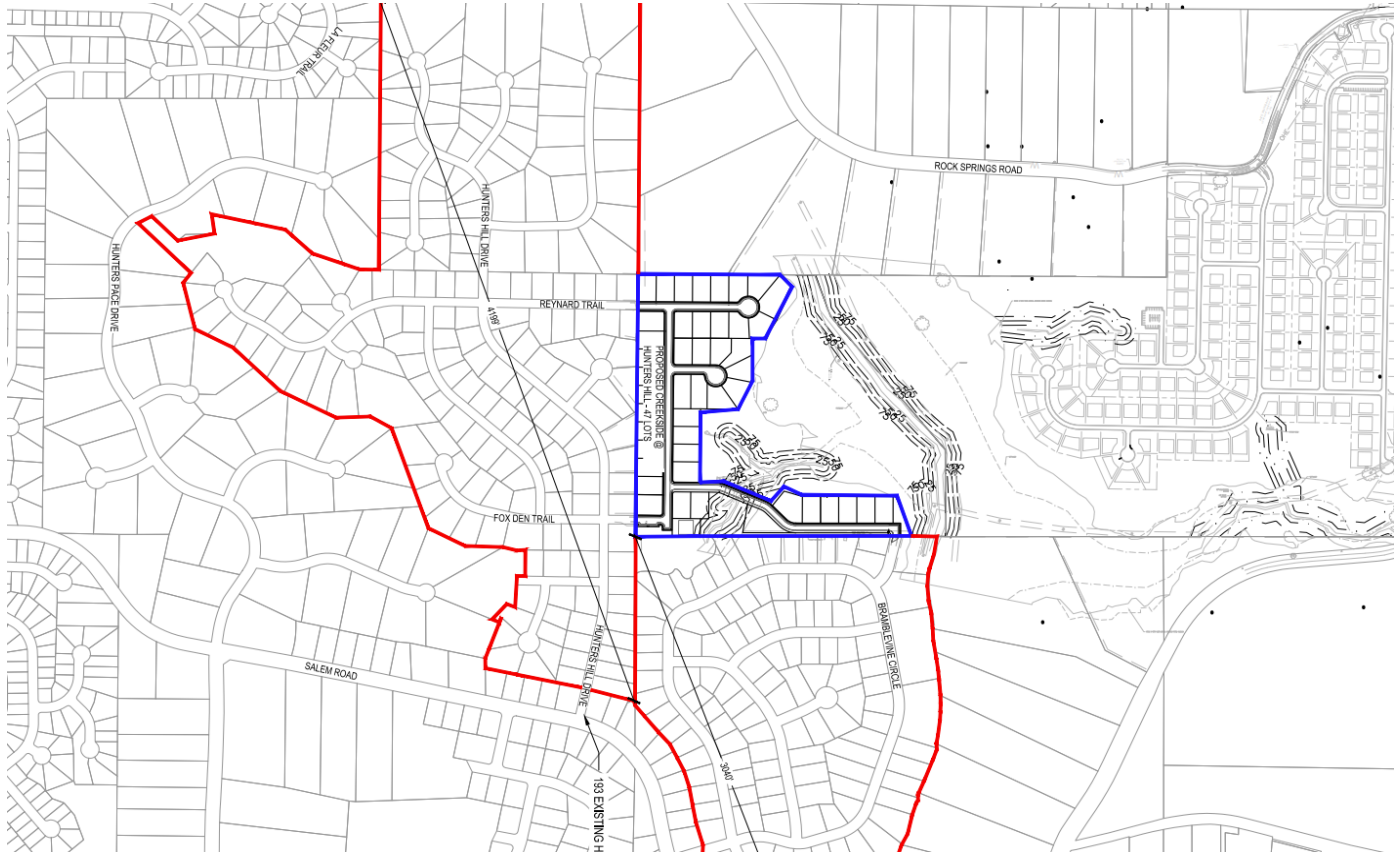
Figure 1: Site Plan for V-25-000005 - 3810 Evans Mill Road







## ZONING BOARD OF APPEALS STAFF REPORT









## **ZONING BOARD OF APPEALS STAFF REPORT**

### **APPLICABLE CODE REQUIREMENTS**

City of Stonecrest Zoning Ordinance (Chapter 14):

#### ***Article III – SUBDIVISIONS***

- a. Division 3 Design Standards*
- b. Part B - Streets*

#### ***Section 14.200 -Access Management.***

The following standards shall apply to all subdivisions and all projects requiring a land development permit where the primary access is from a state or federal highway or an arterial classified as a major, minor or residential arterial or collector street in thoroughfare plan. These standards shall apply unless a more restrictive standard is required by the Georgia Department of Transportation:

***(5.) All developments shall have access to a public right-of-way. The number of access points shall be as follows:***

<b>Type of Development</b>	<b>Minimum No. of Access Points</b>	<b>Type of Primary Access</b>
Residential, under 75 units	1	Residential arterial or collector street
Residential, 76—150 units	2	Residential arterial or collector street
Residential, 151—300	3	Collector street
Residential over 300 units	4	Collector street

#### **Section 14.258 – Frontage**

Each subdivision lot shall front upon a publicly maintained street, unless otherwise approved under this chapter.

#### **Section 14.275 – Open Space Required**

- (a) All residential subdivisions under five acres or consisting of 36 or less dwelling units may, and all residential subdivisions greater than five acres or consisting of more than 36 dwelling units shall be required to provide open space.



## **ZONING BOARD OF APPEALS STAFF REPORT**

### **Section 14.57 – Policies and Purposes**

- (a) Policies
- (b) These regulations are adopted for the following Purposes
  - 3. To protect and conserve the value of land and the economic stability of all communities in the city and to encourage the orderly and beneficial development of the city through appropriate growth management techniques, including consideration of the timing and sequencing of development, consideration of infill development in existing neighborhoods and nonresidential areas with adequate public facilities.

### **Section 14.53 Public Purpose**

Regulation of the subdivision of land and the attachment of reasonable regulations to land subdivision is an exercise of valid police power delegated by the state to this city. A developer of land has the duty of compliance with the regulations set forth herein for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the city and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at-large.



## **ZONING BOARD OF APPEALS STAFF REPORT**

### **STAFF ANALYSIS**

Following are the specific considerations listed in Sec 7.5.3 of the Stonecrest Zoning Ordinance that must be considered by the Board of Zoning Appeals to grant a variance. These considerations include:

- (1) By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The current access issue is the result of decisions made by the property owners. In October 2020, they submitted a rezoning request for the subject property along with the adjacent parcel, now known as Highland Park. At that time, the owners had the opportunity to address access management requirements during the platting process by designing the development to avoid this issue. However, they ultimately withdrew the application, leaving the access concern unresolved. This issue stems from a lack of proper planning to meet established requirements.

- (2) The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

If granted, the requested variance would afford the applicant special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located. In fact, the neighboring subdivision, Highland Park, was faced with the same issue and were held to the standard that is required in the Access Management section of the zoning ordinance. The variance would set a negative precedence and allow the applicant to receive nonconformance status that we require others to adhere.

- (3) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The approval of this variance request could create a public safety issue and negatively impact the two surrounding communities. The approval allows the development of an additional 47 single-family detached homes and could potentially add an additional 118 vehicles passing through the existing subdivisions resulting in an increase in traffic on residential streets. Additionally, during construction, heavy trucks will be entering and exiting the site for several months using residential streets not designed to handle such loads. If these streets are damaged during this period, the cost of repairs would fall on the City of Stonecrest.





## **ZONING BOARD OF APPEALS STAFF REPORT**

- (4) The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

The strict application and literal interpretation of the zoning code Section 14-200 does not cause undue hardship because this issue is a result of actions and decisions made by the applicant while developing the surrounding parcels and not accounting for the proper access for the subject property.

- (5) The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.**

The variance would not be consistent with the spirit and purpose of the zoning ordinance and Comprehensive Plan. This section of the ordinance was established to prevent unaccounted-for traffic from cutting through existing neighborhoods. The current issue arose because the applicant did not plan to meet this requirement when the remnant lot was originally created.

### **RECOMMENDED CONDITIONS**

This variance request will adversely affect existing use or usability of adjacent or nearby properties. The applicant stated in their previous letter of intent that they will preserve over 50 acres of area in which vegetation and fish and wildlife are able to remain intact and undisturbed.

The currently required 15,000 sq.ft. lots will only serve to support urban sprawl and have damaging impact on the environmentally sensitive areas of the subject property. The subject property, 3810 Evans Mill Road, was a part of 178.10 “assembled” tract of land located at 6251 Rock Springs Road known as Highland Village. The applicant stated – it’s the applicant’s intent to comply with all City of Stonecrest Development Regulations.

Based on the findings and conclusions, the applicant **does not** meet the criteria for approval. Staff recommend **Denial of V-25-000005**.



## ZONING BOARD OF APPEALS STAFF REPORT



3120 Stonecrest Blvd. • Stonecrest, Georgia 30038 • (770) 224-0200 • www.stonecrestga.gov

### Variance Application

Type	Type of Request: <input checked="" type="checkbox"/> Zoning <input type="checkbox"/> Administrative Variances	<input type="checkbox"/> Stream Buffer	<input type="checkbox"/> Sign <input checked="" type="checkbox"/> Other
	Applicable Zoning/Sign Code Section:		
	Nature of Request:	Required:	Proposed:
	<input type="checkbox"/> Setback <input type="checkbox"/> Sign <input type="checkbox"/> # Parking Spaces <input checked="" type="checkbox"/> Other	(See Chart to the Right)	Minimum Setback Requirements Front Side Rear Other
Project	Name of Project/Subdivision: Creekside at Hunters Hill		Present Zoning: <del>XX</del> R-100
	Property Address/Location: 3810 Evans Mill Rd, Lithonia, GA 30038		
	District: 16	Land Lot: 076	Block: 02
	Property ID: 16 076 02 002		
Owner Information	Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	Name: Parkland Communities Inc.		
	Address: 925 North Point Parkway, Suite 320 Alpharetta GA 30005		
	Phone: 678-719-9661 Fax: Email: kevin@parklandco.com		
Affidavit	Name:		
	Address:		
	Phone: Fax:		
	Cell: Email:		
Notary	To the best of my knowledge, this variance 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. I understand that failure to supply all required information (per the relevant Applicant Checklist and Requirements of the Stonecrest Zoning Ordinance) will result in the rejection of this application. I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My Signed Campaign Disclosure Statement is included		
	Applicant's Name: Parkland Communities Inc c/o Battle Law PC		Date: May 29, 2025
	Applicant's Signature: <i>James D. Battle</i>		
	Sworn to and subscribed before me this day of 20		
Notary Public: <i>Richard Edwards</i>			RICHARD EDWARDS NOTARY PUBLIC Fayette County, State of Georgia My Commission Expires 11/22/2026
Signature: <i>Richard Edwards</i>			
Date: May 29 2025			

3120 STONECREST BLVD. • STONECREST, GEORGIA 30038 • (770) 224-0200 • WWW.STONECRESTGA.GOV UPDATE 12/15/2023



## ZONING BOARD OF APPEALS STAFF REPORT

### Variance Application

All applications and plans must be submitted through the [Citizenserve Online Portal](#)



#### Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this variance 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 variance(s), 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

Name:	Parkland Communities, Inc.		
Address:	925 North Point Parkway, Suite 320	City, State:	Alpharetta, GA
Signature:	<i>James D. Jacoby</i>	Date:	May 29, 2025
Sworn to and subscribed before me this <u>29</u> day of <u>May</u> , 20 <u>25</u>			
Notary Public:	<i>Richard Edwards</i>		
<div style="border: 1px solid black; padding: 2px; display: inline-block;">RICHARD EDWARDS NOTARY PUBLIC County, State of Georgia Commission Expires 11/22/2026</div>			

##### Additional Property Owner (if applicable)

Name:			
Address:		City, State:	
Signature:		Date:	
Sworn to and subscribed before me this _____ day of _____, 20____			
Notary Public:			

##### Additional Property Owner (if applicable)

Name:			
Address:		City, State:	
Signature:		Date:	





## ZONING BOARD OF APPEALS STAFF REPORT

Sworn to and subscribed before me this 29 day of May, 2025

Notary Public:

*Richard Edwards*

RICHARD EDWARDS  
NOTARY PUBLIC  
Fayette County, State of Georgia  
My Commission Expires 11/22/2026



## ZONING BOARD OF APPEALS STAFF REPORT

### Variance Application

All applications and plans must be submitted through the [Citizenserve Online Portal](#)



#### Applicant(s) Notarized Certification

The petitioner acknowledged that this variance application form is correct and complete. By completing this form, all applicant of the subject property certifies authorization of the filing of the application for variance(s), and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

#### Applicant

Name:	Parkland Communities, Inc.		
Address:	925 North point Parkway, Suite 320	City, State:	Alpharetta, GA
Signature:	<i>James J. Jacob</i>	Date:	May 29, 2025
Sworn to and subscribed before me this <u>29</u> day of <u>MAY</u> , 20 <u>25</u>			
Notary Public:	<i>Richard Edwards</i>		

**RICHARD EDWARDS**  
NOTARY PUBLIC  
Fayette County, State of Georgia  
My Commission Expires 11/22/2026

#### Applicant (if applicable)

Name:			
Address:		City, State:	
Signature:		Date:	
Sworn to and subscribed before me this _____ day of _____, 20____			
Notary Public:			

#### Applicant (if applicable)


Name:			
Address:		City, State:	
Signature:		Date:	



## ZONING BOARD OF APPEALS STAFF REPORT

Sworn to and subscribed before me this 29 day of May, 2025

Notary Public: Richard Edwards







## ZONING BOARD OF APPEALS STAFF REPORT

### Amendment Application

All applications and plans must be submitted through the [Citizenserve Online Portal](#)



### 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

<b>Applicant/Property Owner</b>			
<b>Name:</b>	Parkland Communities, Inc		
<b>Address:</b>	925 North Point Parkway, Suite 320	<b>City, State:</b> Alpharetta, GA	<b>Zip:</b> 30005
<b>Signature:</b>	<i>James D. Jacobs</i>	<b>Date:</b>	<i>May 29, 2025</i>

If the answer above is yes, please complete the following section:

Date	Government Official & Position	Description	Amount
	<i>None</i>		<i>0</i>



## ZONING BOARD OF APPEALS STAFF REPORT





## **ZONING BOARD OF APPEALS STAFF REPORT**



**Battle Law**

### **STATEMENT OF INTENT**

and

Other Material Required by  
Stonecrest Zoning Ordinance  
For  
Land Development Code Section 14-200 (5)

of

**Parkland Communities, Inc.  
c/o Battle Law, P.C.**

for

**+/- 48.54 Acres of Land**  
Being 3810 Evans Mill Road  
Stonecrest, Georgia and  
Parcel No. 16 076 02 002

Submitted for Applicant by:

Michèle L. Battle, Esq.  
Joshua Mahoney, Esq.  
Battle Law, P.C.  
Habersham at Northlake, Building J, Suite 100  
Tucker, Georgia 300384  
(404) 601-7616  
[mlb@battlelawpc.com](mailto:mlb@battlelawpc.com)  
[jsm@battlelawpc.com](mailto:jsm@battlelawpc.com)





## ZONING BOARD OF APPEALS STAFF REPORT



### Battle Law

#### I. LETTER OF INTENT

Parkland Communities, Inc. (the "Applicant") is the owner of that certain 48.54-acre tract of land known as 3810 Evans Mill Road being Tax Parcel 16 076 02 002 (the "Subject Property"). The Subject Property is currently zoned R-100 and to the Applicant's knowledge, as never been developed. The Applicant is seeking to develop the Subject Property for 47 single-family detached homes. The Subject Property abuts both the Hunters Hill and the Bramblewood Subdivisions. Section 14-200 (5) of the Stonecrest Land Development Code requires one (1) point of entrance to a residential arterial road. The Applicant originally proposed two (2) points of entrance to Reynard Trail and Fox Den Trail which stub out into the Subject Property. However, the Planning Staff has indicated that due to the total number of units in both existing communities, a total of either 3 or 4 points of entry will be required in order for the Subject Property to be developed. Therefore, the Applicant is seeking a variance to reduce the require number of access points from four (4) points of access to two (2) points of access by connecting all three subdivision with two remote access points to Salem Road, and local access through Reynard Trail, Fox Den Trail and Foxcroft Court all three of which streets stub out into the Subject Property. This document serves as a statement of intent, analysis of the criteria under the Stonecrest Zoning Ordinance and contains notice of constitutional allegations as a reservation of the Applicant's rights.

#### II. STONECREST VARIANCE CRITERIA

**1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The Subject Property abuts both the Hungers Hill and Bramble Subdivisions. Through no fault of the Applicant, both Subdivisions fail to meet the current access management requirements un Section 14-200 (5) of the Land Development code. The Subject Property abuts three (3) stub streets which technically satisfy the requirement for 47 units to connect to one (1) residential arterial road, however, due to the adjacent subdivisions not meeting the access requirements, the Planning Department is denying the Applicant's subdivision request which creates an undue hardship on the Applicant. To address the safety concerns raised by the Planning Department, the Applicant is proposing to connect into both subdivisions thereby creating two points of entry into the two existing subdivisions, allow with allowing access into the proposed subdivision. The Applicant has met with Chief Labbe with the DeKalb County Fire Marshall's division regarding the proposed access points and submitted site plan. The failure to grant the relief request would deprive the property owner of rights and privileges enjoyed by other property owners zoned R-100.

**2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The requested variance does not go beyond the minimum necessary to insure adequate safety access for residents, guest, and fire/safety to all three subdivisions. In fact, granting the

3562 Habersham at Northlake • Building J, Suite 100 • Tucker, Georgia 30084 • Ph: 404.601.7616  
battlelawpc.com



## ZONING BOARD OF APPEALS STAFF REPORT



### Battle Law

requested variance will allow for fire and safety to have an additional point of access into both the Hunter's Hill and Bramblewood subdivisions which should be deemed a plus for the entire community.

**3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

Granting the reduction in the access points will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district. The addition of the 47 homes will allow connectivity for all three subdivision that would not occur but for the Applicant seeking to develop the Subject Property, as the City of Stonecrest has no intentions of providing secondary access for either subdivision in order to bring the two subdivisions in to closer compliance with the current access management requirement of the Land Development Code.

**4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

Strictly enforcing the requirement of 4 access points into the subdivision will cause undue hardship because it would restrict all valid economic uses for the Subject Property.

**5. The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.**

The Comprehensive Plan supports infill development, particularly when the infill development is not seeking any amendment to the zoning regulations such that the proposed subdivision will allow for the development of homes on lots that are consistent with the existing lot sizes for the area.

## **II. CONCLUSION**

For the foregoing reasons, the Applicant hereby requests that the application for a reduction of the required access management points 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 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

3562 Habersham at Northlake • Building J, Suite 100 • Tucker, Georgia 30084 • Ph: 404.601.7616

[battlelawpc.com](http://battlelawpc.com)



## ZONING BOARD OF APPEALS STAFF REPORT



### Battle Law

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

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

A refusal by the Stonecrest Zoning Board of Appeals to grant the stream buffer variance 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 stream buffer variance 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 stream buffer variance in question 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 stream buffer variance 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

3562 Habersham at Northlake • Building J, Suite 100 • Tucker, Georgia 30084 • Ph: 404.601.7616

[battlelawpc.com](http://battlelawpc.com)

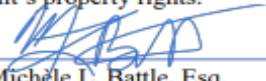


## ZONING BOARD OF APPEALS STAFF REPORT



### Battle Law

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 DeKalb 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.

  
Michele L. Battle, Esq.  
Attorney for the Applicant





## **ZONING BOARD OF APPEALS STAFF REPORT**

---

### **Zoning Board of Appeals Public Hearing September**

<b>Petition Number:</b>	V25-006
<b>Applicant:</b>	Fortune Real Estate Investment, LLC.
<b>Owner:</b>	Selman Family Revocable Living Trust
<b>Project Location:</b>	6029 Hillandale Drive & 6001 Hillandale Drive <a href="#">16 088 02 005</a> & <a href="#">16 088 02 007</a>
<b>Current Zoning:</b>	M-Light Industrial
<b>Acreage:</b>	+/-0.86
<b>Staff Recommendation:</b>	Approval w/ conditions
<b>Variance Request:</b>	This applicant seeks a variance to waive the requirement outlined in Section 4.2.19(D) of the City Code, which prohibits a child daycare center from being located within 1,000 feet of another child daycare center.

#### **Proposed Use**

The subject property, located at 6029 Hillandale Drive, is currently developed and proposed for the use of a child daycare center. The existing structure was constructed around 1984 for daycare operations. From its construction until approximately 2020, the property was continuously operated as a licensed daycare center. Between 2021 and 2024, it was used as a residential dwelling. The property is currently vacant.

#### **Zoning and Case History**

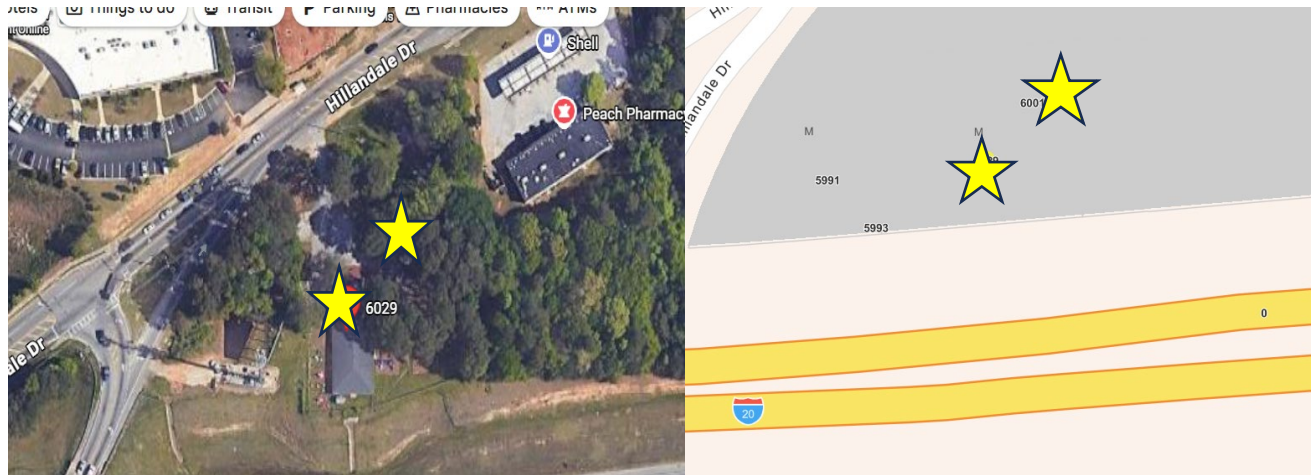
The subject property and all surrounding properties are zoned M- Light Industrial and Stonecrest Overlay Tier 6. There are no known existing conditions of zoning found associated with this property.



## **ZONING BOARD OF APPEALS STAFF REPORT IMAGES**

6029 Hillandale Drive Lithonia, GA 30058

City Map of Stonecrest, GA GIS & Dekalb County GIS Map Viewer Systems



### **Existing Conditions**

The property consists of approximately  $\pm 0.86$  acres located north of Interstate 20. It includes two addresses: 6029 Hillandale Drive and 6001 Hillandale Drive. The official parcel for the overall boundary is 6029 Hillandale Drive (Parcel ID: 16 088 02 005), while 6001 Hillandale Drive is associated with (Parcel ID: 16 088 02 007). The site includes a 43,528-square-foot building and features a playground on the 6001 Hillandale parcel. The property has direct ingress and egress from Hillandale Drive only.

### **Variance Request**

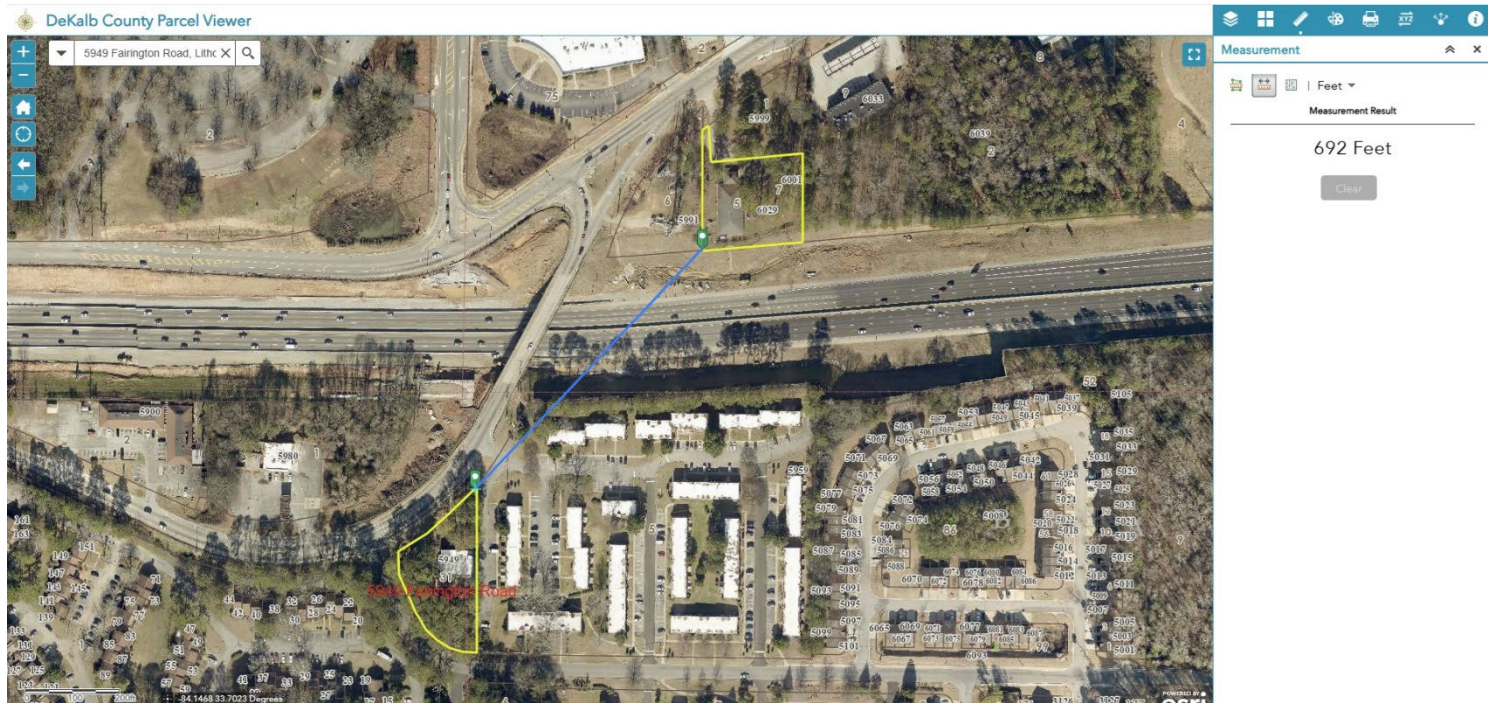
The applicant seeks a variance for the distance requirement outlined in Section 4.2.19 of the City of Stonecrest Code to operate a child daycare center for the approximately 0.86-acre tract known as 6029 Hillandale Drive, Parcel ID 16 088 02 005. The variance request would waive the requirement outlined in Section 4.2.19(D) of the City Code, which prohibits a child daycare facility from being located within 1,000 feet of another child daycare facility.





## ZONING BOARD OF APPEALS STAFF REPORT

Survey indicating the distance between 5949 Fairington Road and 6029 Hillendale Drive:



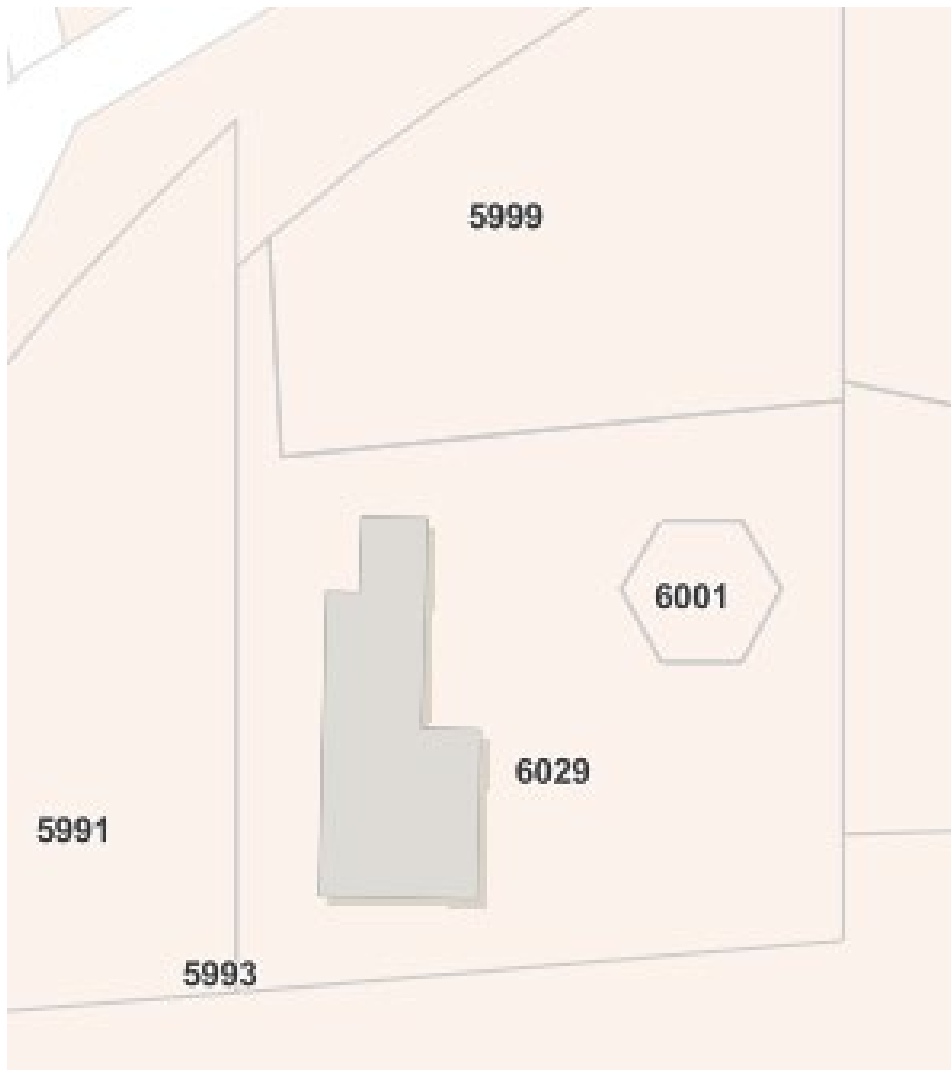
Existing Daycare:





## **ZONING BOARD OF APPEALS STAFF REPORT**

Subject Parcel:

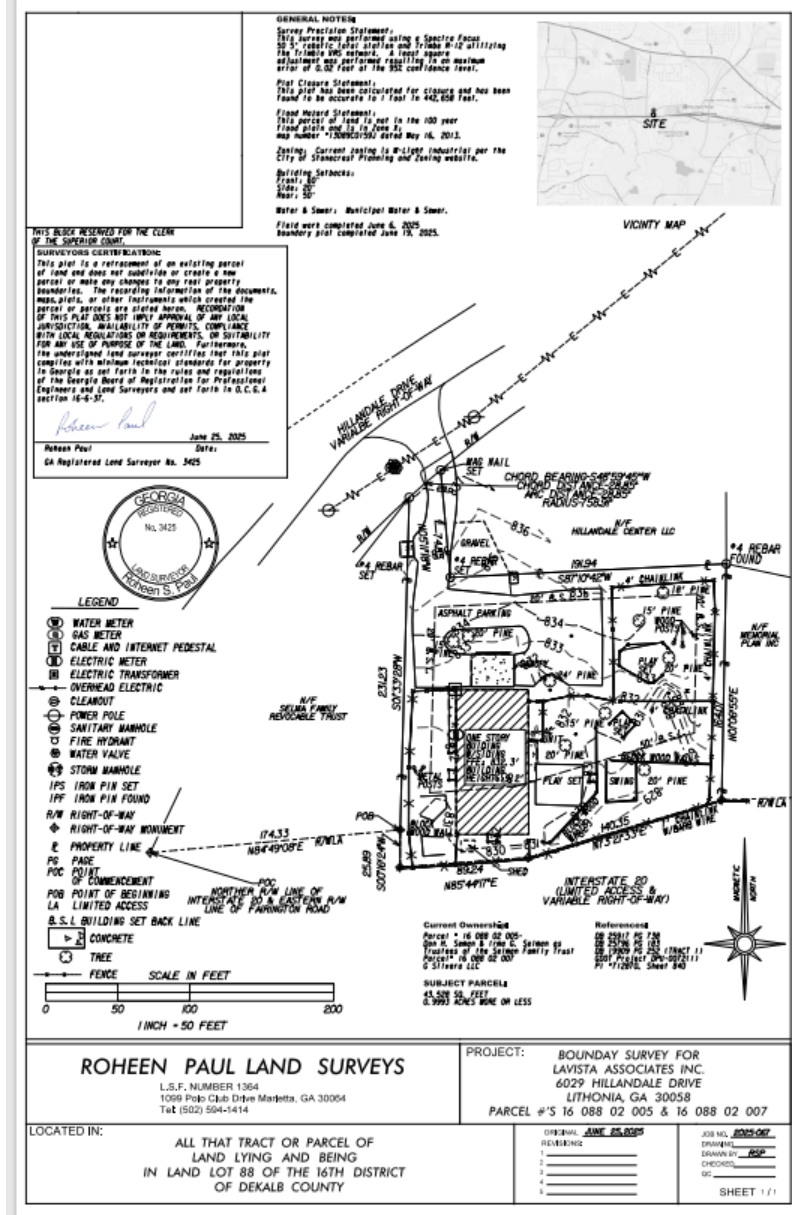






## ZONING BOARD OF APPEALS STAFF REPORT

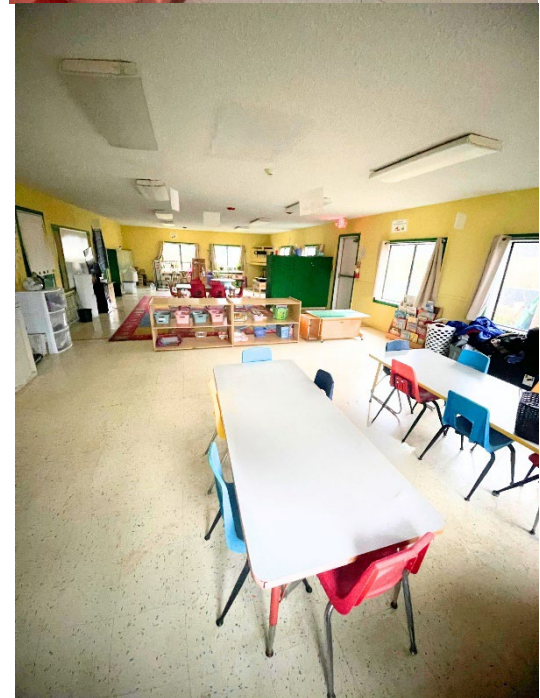
Site Plan for V-25-000006- 6029 Hillandale Lithonia, GA





## ZONING BOARD OF APPEALS STAFF REPORT

Pictures of the interior site:







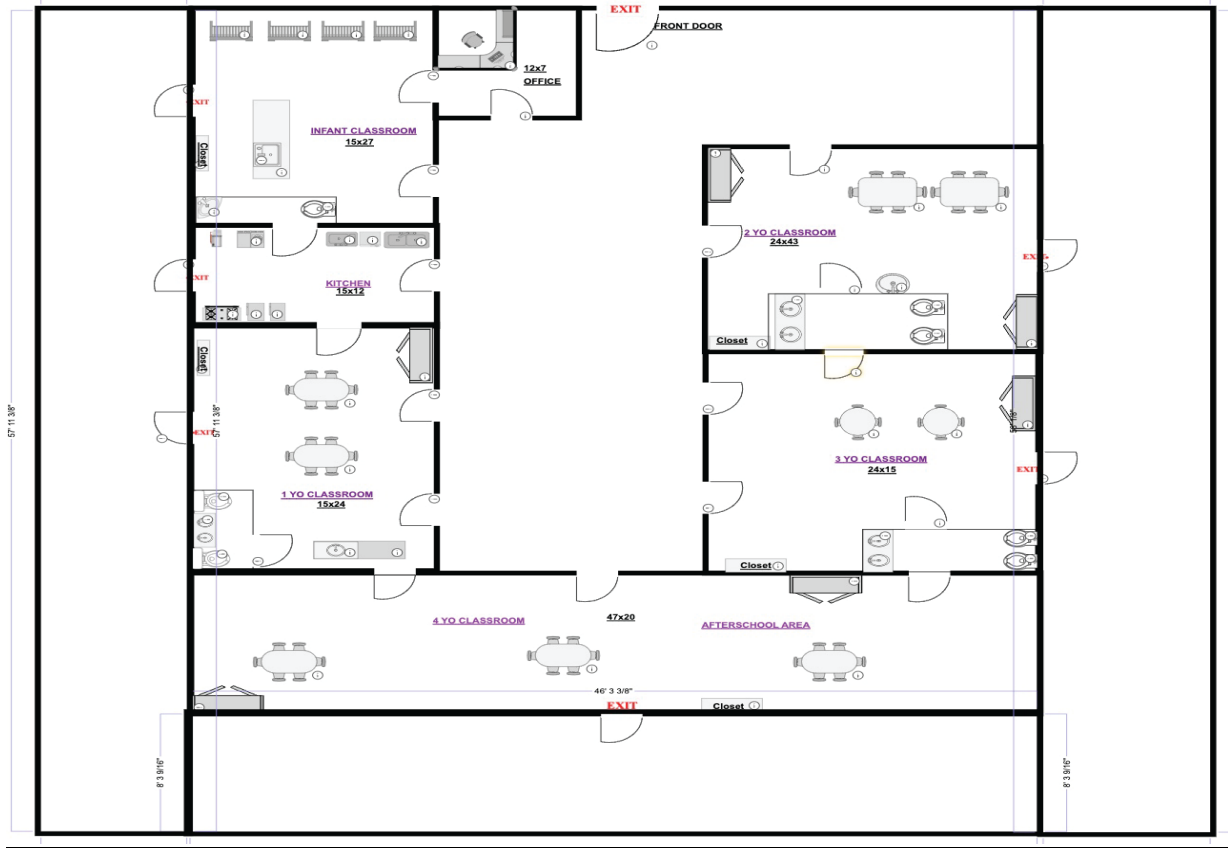
## ZONING BOARD OF APPEALS STAFF REPORT





## ZONING BOARD OF APPEALS STAFF REPORT

Proposed Interior Site Plan:



### APPLICABLE CODE REQUIREMENTS

City of Stonecrest Zoning Ordinance (Chapter 27):

#### **Sec. 4.2.19. - Child daycare facility (up to six children), or child daycare center (seven or more children).**

Each child daycare facility and child daycare shall be subject to the following requirements. A child daycare facility or center may also be a kindergarden or preschool.

- A. Each child daycare facility and child daycare center shall comply with all applicable state daycare requirements for standards, licensing and inspection. A City of Stonecrest business license is required.
- B. Prior to the issuance of a business license for a childcare facility of child daycare center, the necessary licensing from the State of Georgia shall be obtained, including compliance with all requirements related to minimum area for classrooms, play areas, and fencing. Each child daycare





### **ZONING BOARD OF APPEALS STAFF REPORT**

- facility and child daycare center shall provide off-street parking spaces as required by the applicable zoning district. Each child daycare center shall provide an adequate turnaround on the site.
- C. The exterior appearance of child daycare facility located in a residential district shall be maintained as a residential structure, and no signs other than those otherwise authorized within the applicable zoning district shall be erected (no cut-outs, animal characters, or other graphics shall be affixed to the exterior of the structure or displayed upon the premises).
  - D. No child daycare facility shall be located within 1,000 feet of another child daycare facility.
  - E. See also additional approval criteria in [article 7](#) of this chapter, administration.

The applicant is seeking to waive the requirements outlined in Section 4.2.19(D) of the City Code, which prohibits a child daycare facility from being located within 1,000 feet of another child daycare facility.

### **VARIANCE CONSIDERATIONS**

Following are the specific considerations listed in Sec 7.5.3 of the Stonecrest Zoning Ordinance that must be considered by the Board of Zoning Appeals to grant a variance. These considerations include:

- (1) By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

This criterion is not applicable to the requested variance. The request does not arise from exceptional lot dimensions, topography, or other physical site conditions such as floodplain, steep slopes, or existing natural features. The variance request pertains solely to the proximity requirement for childcare centers and is not related to any physical constraints of the property that would otherwise deprive the owner of rights enjoyed by others in the same zoning district.

- (2) The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The requested variance is limited to the minimum necessary to provide relief, allowing for the operation of a child daycare center within 1,000 feet of an existing facility. Its purpose is to enable the reasonable use of the property in a manner consistent with its zoning designation and the needs of the surrounding community. The subject property remains in full compliance with all other zoning requirements, and the proposed use meets all applicable health, safety, and operational standards for a child daycare center. This request does not represent or grant of special privilege, as similar properties within the same zoning district may also qualify for such relief under comparable conditions. The variance is not intended to circumvent zoning regulations but to address a unique, site-specific circumstance that does not



### **ZONING BOARD OF APPEALS STAFF REPORT**

negatively affect adjacent properties or the underlying goals of the zoning ordinance. Moreover, approval of this request would help meet a growing community demand for accessible, high-quality childcare services, without materially undermining the purpose of the 1,000-foot separation standard.

**(3) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The granting of this variance will not be materially detrimental to the public welfare, nor will it negatively impact surrounding properties or improvements within the zoning district. The subject property previously operated as a licensed child daycare center from approximately 1984 until the onset of the COVID-19 pandemic, serving the community for decades without incident. During that time, the facility upheld high professional standards, remained in compliance with all applicable regulations, and did not generate complaints or cause adverse effects on the surrounding neighborhood.

**(4) The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

The subject property contains unique physical characteristics and design features that make it particularly well-suited for use as a child daycare center, while rendering it impractical to convert to another use without significant hardship. The building was purpose-built for childcare and includes specialized elements such as child-sized restroom fixtures, classroom-style layouts, and integrated safety features that are not easily adaptable for alternative uses. Additionally, the site includes permanently installed outdoor playground equipment, further emphasizing its intended function. While other uses may technically be possible, the cost and effort required to repurpose the facility would be financially prohibitive and impose an undue burden on the property owner. These built-in characteristics significantly reduce the property's flexibility and distinguish it from others in the zoning district that are more readily adaptable.

**(5) The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.**

The requested variance is fully consistent with the intent and guiding policies of the City of Stonecrest's Comprehensive Plan. The Plan outlines a vision for sustainable development, emphasizing quality residential neighborhoods, thriving commercial areas, compatible mixed-use developments, and strategically located employment centers all while balancing growth with community needs. Reactivating the property's long-standing use as a childcare center directly aligns with this vision. The facility was purpose-built for childcare, featuring child-friendly plumbing, classroom layouts, and permanent playground equipment. This supports the efficient reuse of existing infrastructure, minimizes the need for redevelopment, and promotes neighborhood continuity. Restoring this well-established community service



### **ZONING BOARD OF APPEALS STAFF REPORT**

without causing adverse impacts or requiring significant new construction further advances the city's long-term planning goals and commitment to serving local families.

#### **RECOMMENDED CONDITIONS**

Based on the findings and conclusions, the applicant meets all the criteria for approval of a Legal Non-Confirming Child daycare center. Staff recommends **Approval of V-25-000006** with the following conditions.

1. **Interior and Exterior Upgrades:** The applicant shall make necessary upgrades to both the interior and exterior of the child daycare center to ensure it meets all current applicable building, safety, and aesthetic standards, consistent with current operational requirements for childcare centers.
2. **Site Plan Submission:** The applicant shall submit a detailed site plan for review and approval, indicating the location and size of the building, parking layout, and any outdoor amenities, such as playground areas and fencing.
3. All items that are not appropriate or permitted for use in a licensed childcare facility must be removed from the premises. Only materials, furnishings, and equipment necessary for the operation of a child daycare center should be present within the building.
4. Per definition: Child daycare center means an establishment operated by any person with or without compensation providing for the care, supervision, and protection of seven or more children who are under the age of 18 years for less than 24 hours per day, without transfer of legal custody. The term "child caring institution" shall not include a "child day care center or child care facility." No 24-hour operation is allowed.
5. No persons shall operate a Child daycare center unless a license has been obtained from the Georgia Department of Early Care (Bright from the Start)

These conditions are intended to support the safe and effective operation of the facility while maintaining compatibility with the surrounding neighborhood and furthering the goals of the City of Stonecrest's Comprehensive Plan.