



CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Council Member Diane Adoma – District 5

CITY COUNCIL MEETING AGENDA

August 26, 2019

7:00 p.m.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** Megan Reid, City Clerk
- III. INVOCATION**
- IV. PLEDGE OF ALLEGIANCE**
- V. AWARDS AND HONORS**
- VI. APPROVAL OF THE COUNCIL AGENDA**
- VII. MINUTES:**
 - a. Approval of the August 12, 2019 City Council Meeting Minutes
- VIII. PRESENTATIONS:**
- IX. PUBLIC COMMENTS**
- X. APPOINTMENTS:**
- XI. PUBLIC HEARINGS:**
 - a. RZ-19-006- Rezone Application (6024 Covington Hwy)
 - b. RZ-19-007- Rezone Application (1794, 1800 & 1850 Phillips Rd)

XII. NEW BUSINESS:

- a. Affirmed Policy Consulting, LLC- Contract
- b. Purchasing Policy
- c. Elections
 - i. Call for Special Election
 - ii. Advance Voting at Stonecrest Library (3weeks prior to election)
- d. Real Estate Purchase

XIII. OLD BUSINESS:

XIV. EXECUTIVE SESSION:

WHEN AN EXECUTIVE SESSION IS REQUIRED, ONE WILL BE CALLED FOR THE FOLLOWING ISSUES: 1) PERSONNEL, 2) LITIGATION, 3) REAL ESTATE

XV. CITY MANAGER COMMENTS

XVI. CITY ATTORNEY COMMENTS

XVII. MAYOR AND COUNCIL COMMENTS

XVIII. ADJOURNMENT

Americans with Disabilities Act

The City of Stonecrest does not discriminate on the basis of disability in its programs, services, activities and employment practices.

If you need auxiliary aids and services for effective communication (such as a sign language interpreter, an assistive listening device or print material in digital format) or reasonable modification to programs, services or activities contact the ADA Coordinator, Megan Reid, as soon as possible, preferably 2 days before the activity or event.



COUNCIL MEETING AGENDA ITEM

SUBJECT: Minutes from 8/12/2019

☐ ORDINANCE	☐ POLICY	☐ STATUS REPORT
☐ DISCUSSION ONLY	☐ RESOLUTION	☒ OTHER

Council Meeting: 08-26-2019

SUBMITTED BY: Danielle Matricardi, Esq.

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Approval by Mayor and Council



CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Council Member Diane Adoma – District 5

CITY COUNCIL MEETING MINUTES

August 12, 2019

7:00 p.m.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

I. CALL TO ORDER: Mayor Jason Lary

II. ROLL CALL: All members were present.

III. INVOCATION: Invocation was led by Pastor Bob Lindsay.

IV. PLEDGE OF ALLEGIANCE

V. AWARDS AND HONORS

1. Council Member George Turner recognized DeKalb Lions and proclaimed August 12 as DeKalb Lions Day. The Lions are the first African-American youth baseball team from the United States and from Georgia in 11 years to compete in the 2019 Cooperstown Baseball World “Hall of Fame” Tournament.

VI. APPROVAL OF THE COUNCIL AGENDA:

Motion 1- was made by Council Member Diane Adoma to approve the agenda and a second was provided by Council Member Jimmy Clanton.

Motion passed unanimously.

VII. MINUTES:

Council Member George Turner said the wrong name at the last meeting and would like to correct the name of the Brandol Major from the last meeting.

Motion 2- was made by Council Member Rob Turner to approve the Council Meeting Minutes from July 8, 2019 and a second from Council Member George Turner.

Motion passed unanimously.

VIII. PRESENTATIONS:

None.

IX. PUBLIC COMMENTS:

- Ayana Bell- Would like more police presence at Charles Cudd Court
- Willie Dunlap- Would like more police presence at Charles Cudd Court
- Sharlene Green- No Show

X. APPOINTMENTS:

None

XI. PUBLIC HEARINGS:

None

XII. NEW BUSINESS:

1. Transportation Master Plan Award

Recommendation by Staff to award Contract in the amount of \$178,520 to VHB.

Motion 3- was made by Mayor Lary to ward the contract to VHB in the amount of \$178,520 and was seconded by Council Member Jimmy Clanton.

Motion 4- was made by Council Member Adoma to defer the decision until the city has a comprehensive purchasing policy. **Motion failed.**

Motion 3 passed 5-1 with Council Member Diane Adoma opposing.

2. CEI Contract Award

Deputy City Manager Plez Joyner read aloud a memo from Ken Hilderbrand and the recommendation of Southeastern Engineering Inc in the amount of \$50,0000.

Motion 5- was made by Council Member George Turner to award the Contract for CEI Services to Southeastern Engineering Inc in the amount of \$50,000 and seconded by Council Member Rob Turner.

Motion 6- was made by Council Member Adoma to defer the decision until the next council meeting on August 26. **Motion failed.**

Motion 5 passed 5-1 with Council Member Diane Adoma opposing.

3. Parks and Recreation Master Plan Contract

Sean DePalma, Parks and Recreation Director, read the recommendation from staff to award the contract to Green Play, LLC in the amount of \$199,995.

Motion 7- was made by Council Member Rob Turner to award the Contract for Parks and Recreation Master Plan to Green Play LLC in the amount of \$199,995 and seconded by Council Member Jimmy Clanton.

Motion 7 passed 5-1 with Council Member Diane Adoma opposing.

Council Member Adoma made a comment about her displeasure with the process of awarding the contracts.

XIII. OLD BUSINESS:

XIV. EXECUTIVE SESSION:

WHEN AND EXECUTIVE SESSION IS REQUIRED, ONE WILL BE CALLED FOR THE FOLLOWING ISSUES: 1) PERSONNEL, 2) LITIGATION, 3) REAL ESTATE

None.

XV. CITY MANAGER COMMENTS:

No comments.

XVI. CITY ATTORNEY COMMENTS:

No comments

XVII. MAYOR AND COUNCIL COMMENTS:

Council Member Rob Turner- Invited the Public to come to the Film and Entertainment Committee's Event with actor Rob Townsend hosting the documentary "Making The Five Heartbeats" on Saturday

Council Member Jimmy Clanton- District 1 Meeting the 1st Saturday of the Month at 10:00am at the AEI Start Up Factory

Council Member George Turner – District 4 Overlay Committee Meeting scheduled for August 13 at 6pm at the Salem/Panola Library

Council Member Adoma- Stated she was accepted to the GA Academy for Economic Development. Also will be working with the 100 Women 100 Million Dollar Project and getting people Small Business Association Certifications

XVIII. ADJOURNMENT:

Motion 16- was made by Jimmy Clanton to adjourn the Council meeting at 8:00pm and a second was provided by Council Member George Turner.

Motion passed unanimously.

Read and adopted in the regular meeting of the City Council held on this _____ day of _____, 2019.

Mayor Jason Lary

ATTEST:

Megan P. Reid, City Clerk



CITY COUNCIL AGENDA ITEM

**SUBJECT: Ordinance for Rezoning Application
RZ-19-006 (6024 Covington Hwy)**

☐ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**

☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☒ **OTHER**

Date Submitted: 08/20/2019

Work Section:

Council Meeting: 08/26/2019

SUBMITTED BY: Christopher Wheeler, Planning and Zoning Director

PURPOSE: Rezone subject property from MR-2 (Med Density Residential) District to C-1(Local Commercial) for future commercial development.

HISTORY: This item was originally heard at the August 3rd Planning Commission meeting. The applicant requested to change the subject property from MR-2 To C-1 for future commercial development. The Planning Commission recommend approval with conditions, except condition number 2 was removed.

OPTIONS: Approve, Deny or Make alterations.

RECOMMENDATED ACTION:

Planning Commission recommended approval with conditions of RZ-19-006 at the August 3rd public hearing.

ATTACHMENTS:

- # 1 08/20/2019 Staff Report
- # 2 08/20/2019 Application
- # 3 08/20/2019 Power Point Presentation



PLANNING COMMISSION

RZ-19-006 **Attachment #1**

08/20/2019 Staff Report



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-006

Planning Commission Aug 6th, 2019 / Mayor and City Council Meeting Aug 26th, 2019

GENERAL INFORMATION

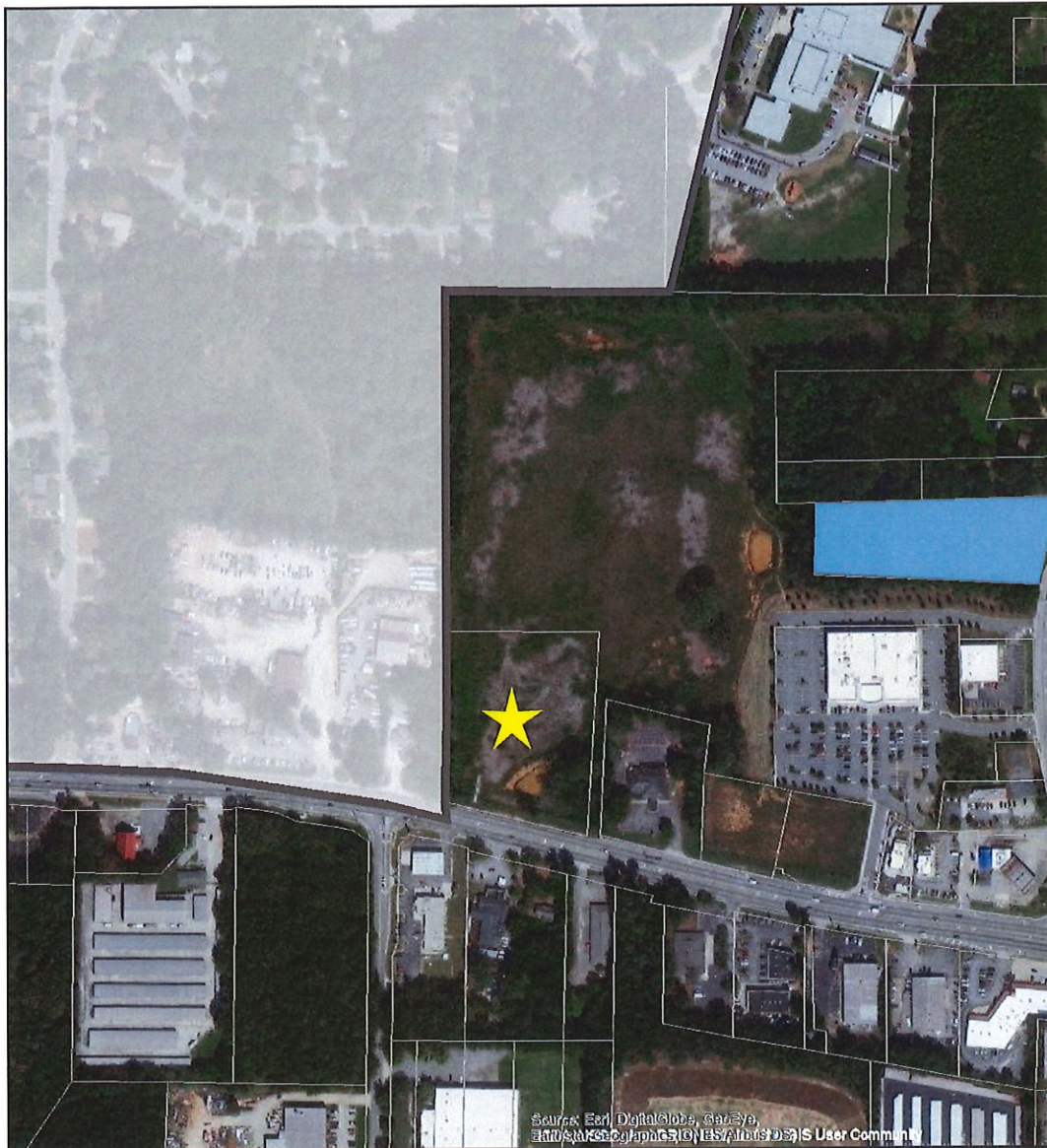
Petition Number:	RZ-19-006
Applicant:	Halpern Enterprises, Inc.
Owner:	Halpern Enterprises, Inc
Project Location:	6024 Covington Hwy
District:	District 2
Acreage:	3.78
Existing Zoning:	MR-2 (Med Density) District Conditional
Proposed Zoning:	C-1 (Local Commercial) District
Comprehensive Plan Community: Area Designation	Neighborhood Center
Proposed Development/Request:	The applicant is requesting to rezone the subject property from MR-2 Conditional to C-1 for future commercial development.
Staff Recommendations:	Approval with Conditions
Planning Commission:	Approval with Conditions



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-006

Aerial Map



ZONING CASE: **RZ-19-006**

ADDRESS: **6024 Covington Hwy**

CURRENT ZONING: **MR-2 Conditional**

FUTURE LAND USE: **NEIGHBORHOOD CENTER**



Subject Property

0 0.05 0.1 mi



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-006

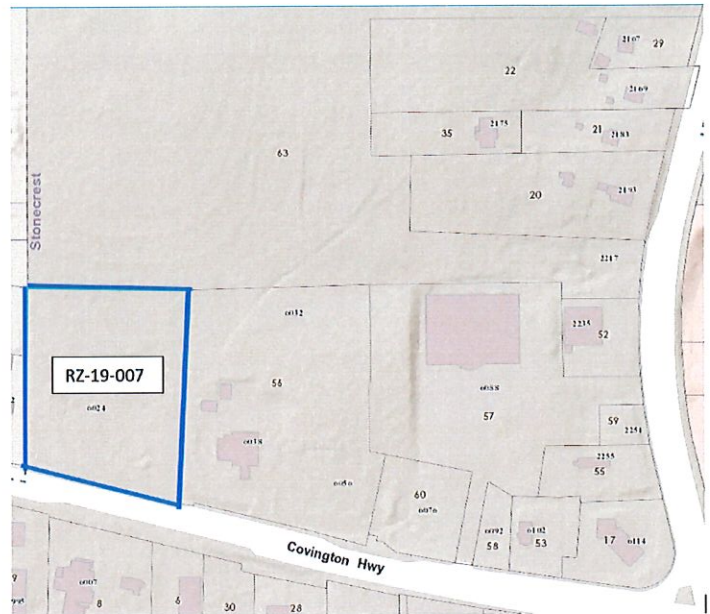
PROJECT OVERVIEW

Location

The subject property, 6024 Covington Hwy, is located approximately 1250 feet west of the Covington Hwy and Panola Road intersection.

The property is bounded by Covington Hwy to the south, by a 167-townhome unit subdivision (Bentley Estates) to the north, unincorporated DeKalb County to the west and Lidl grocery store to the east.

Further to the east is Advance Auto Part Store, Church's Chicken, Dunkin Doughnuts, Murphy Gas Station, LA Fitness, Shell Gas Station and Waffle House.



Background

Currently, the property is zoned MR-2 under Stonecrest zoning case AX-18-0001. The subject property was part of 11.63 acres annexation application file by the applicant August 2018. Seven acres of the original eleven acres is currently being develop for a townhome development. The property has a mixture of young and mature hardwood trees. The topography of the property is characterized as being even throughout.



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

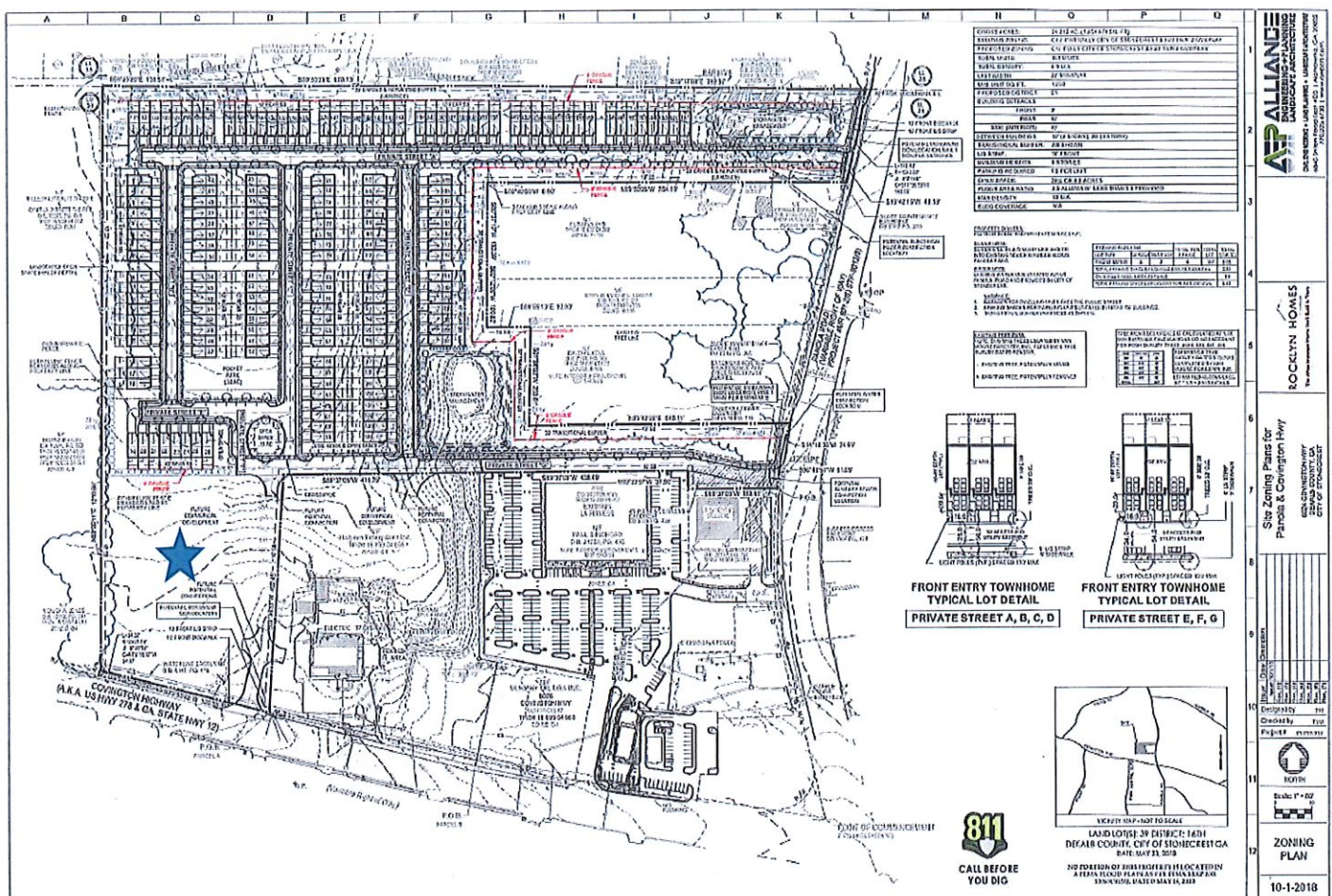
RZ-19-006

Rezoning Request

The applicant is requesting to rezone the subject property from MR-2 to C-1 for future commercial development. Please see the following concept on the next page.

Conceptual Site Plan

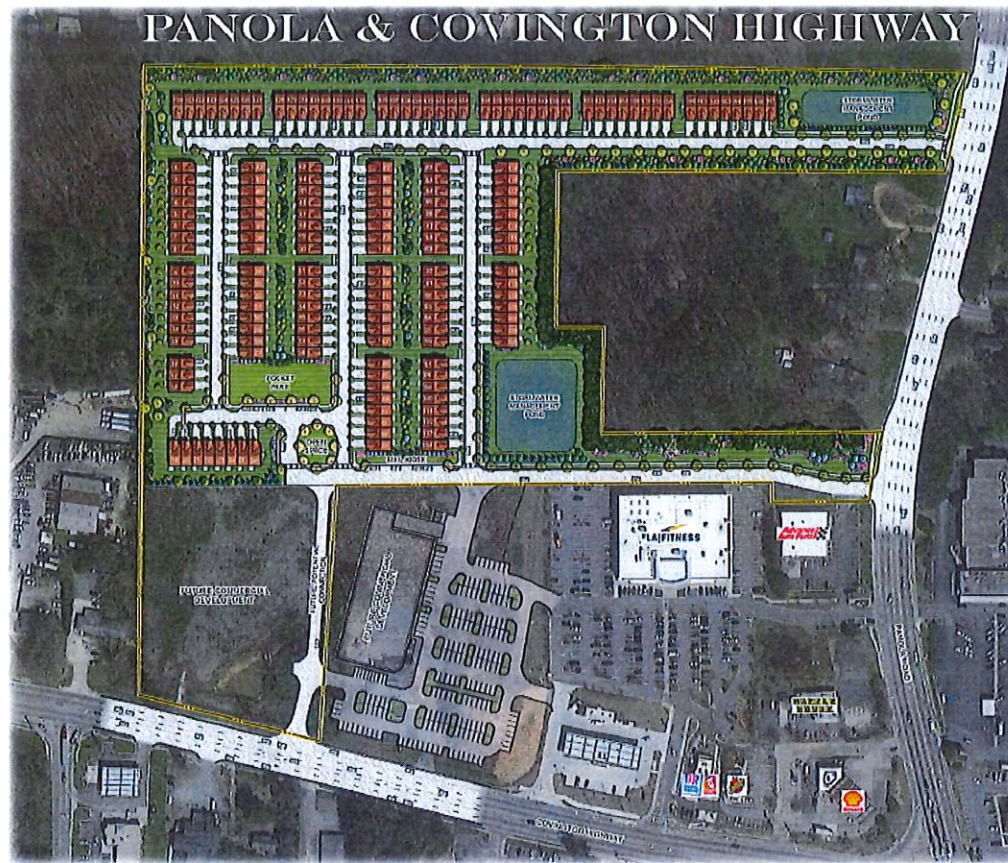
The site plan indicates the subject property will abut the 167-townhome development to the north and complement the future commercial development along Covington Hwy.



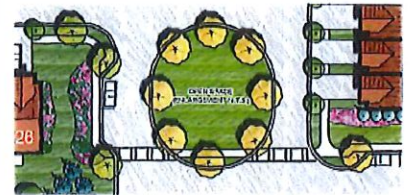
PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-006

Color Site Plan



GROSS ACRES:	24.212 AC.
PROPOSED ZONING:	MR-2/ FULLY CITY OF STONECREST & I-20 TIER 2 OVERLAY
TOTAL UNITS:	167 UNITS
TOTAL DENSITY:	6.9 U/A
UNIT WIDTH:	22' MINIMUM
BUILDING SETBACKS	
FRONT:	0'
REAR:	10'
SIDE (INTERIOR):	10'
OPEN SPACE:	20% OR 4.8 ACRES



Public Participation

Property owners within 500 feet of subject property were mailed notices of the proposed rezoning in July. The community meeting was held on July 16th, 2019 at 6:30 pm at the Lou Walker Senior Center at 2538 Panola Road, Stonecrest Georgia 3058. No one attended the community meeting.



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-006

STANDARDS OF REZONING REVIEW

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

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

As shown in the table below, the subject property is surrounded by commercial uses (shopping centers) and medium density housing. * Please see the map below table

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use	Density Non-Residential (SF/Acre) Residential (Units/Acre)
Adjacent: North	MR-2 (Med Density Residential AX-19-001)	Residential (Townhomes)	8.0 units/acre
Nearby East	C-1 (CZ-87128)	Commercial (Shopping Center)	n/a
Adjacent: West	O-I (Office Institutional CZ-02040)	Institutional	8.0 units/acre
Nearby: North East	RSM (Small Lot Residential Mix)	Residential (Leisure Valley Subdivision)	4.0 units/acre
Nearby: East	C-1 (CZ-12-17693)	Commercial (Waffle House)	n/a
Nearby: East	C-1 (CZ-12-17693)	Commercial (Murphy Gas Station)	n/a
Nearby: East	C-1 (CZ-12-17693)	Commercial (L.A. Fitness)	n/a
Adjacent: South	MR-2 (Med Density Residential)	Commercial (Kreative Academy)	n/a

The presence of nearby shopping centers and medium density housing and surrounding commercial suggest the proposed development would be suitable for this location.

PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-006



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

The subject property is located within the Neighborhood Center character area of the Stonecrest Comprehensive Plan. The intent of the neighborhood center is to encourage development to complement the character of neighborhoods and have locations that promote walkability, reduce automobile travel, and increase transit use.

The proposed development is in an ideal area to meet the intent of the character area. The development will provide services to the surrounding residents in the community with its future development of shopping and dining. Also, provide connectivity to the residential development to the north.

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

The property is currently zoned MR-2 which permits the development of detached single-family home and multifamily development with a minimum lot size ranging from 5,000 square feet to 1,000 square feet. The property has reasonable economic use a currently zoned.

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



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-006

The proposed commercial use is not anticipated to have a negative impact on the adjacent and nearby properties as the majority of the surrounding use are commercial uses such as the proposed use.

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

The property was originally part of a mix-used development that was unable to develop due to the economic downturn in 2007 and was zoned C-1 when it was in unincorporated DeKalb County. Rezoning back to C-1 would be in keeping with its original purpose, which gives support for approval of the zoning proposal.

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

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

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

The zoning proposal will not cause an excessive or burdensome use of existing streets and transportation facilities. Covington Hwy is Major Arterial which is designed to handle future commercial development.

The zoning proposal will not cause an excessive or burdensome on utilities as Dekalb County believes the property has the sewer capacity for commercial development.

The proposed use will not have an excessive or burdensome use on schools.

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

The zoning proposal will not adversely impact the environment or surrounding natural resources. The applicant will have to provide for the management of stormwater according to the City's regulations and state regulations.



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-006

STAFF RECOMMENDATION

Staff recommends **Approval** of Land Use Petition RZ-19-006 with the following conditions:

1. 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, specifically excluding high rise climate controlled self-storage
 - 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
2. The site shall be developed in general conformance with the site plan received by the City on May 7th, 2019.
3. Final elevations shall be subject to review and approval of the Community Development Director.
4. Owner/Developer shall install a five foot (5') wide sidewalk along the entire frontage of Covington Hwy.
5. Owner/Developer shall obtain all permits required by the City of Stonecrest in accordance with the development of the subject property.
6. Water and sewer approval are required by the DeKalb County Department of Watershed Management.



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-006

PLANNING COMMISSION RECOMMENDATION

At the August 6, 2019 public hearing, the Planning Commission recommended **APPROVAL** of Land Use Petition RZ-19-006 as C-1 Conditional with the following enumerated conditions.

1. 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, specifically excluding high rise climate controlled self-storage
 - 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
2. Final elevations shall be subject to review and approval of the Community Development Director.
3. Owner/Developer shall install a five foot (5') wide sidewalk along the entire frontage of Covington Hwy.
4. Owner/Developer shall obtain all permits required by the City of Stonecrest in accordance with the development of the subject property.
5. Water and sewer approval are required by the DeKalb County Department of Watershed Management.



PLANNING COMMISSION

RZ-19-006 **Attachment #2**

08/20/2019 Application



PAYMENT
ENTERED
6-14-19/205
RZ19-000009

Amendment Application

RZ-19-004/Citizen Serve

RZ-19-0009

Owner Information	Owner's Name: Halpern Enterprises, Inc.		
	Owner's Address: 5200 Roswell Rd. NE A, Atlanta, GA 30342		
	Phone: 770.508.3338	Email: moppenheimer@halpernent.com	
	Property Address: 6024 Covington Highway		
	Parcel Size: 3.7818 acres		
	Parcel ID: 16 039 04 034		
	Current Zoning Classification: MR-2 Conditional		
	Requested Zoning Classification: C-1		
	Property Information	Name: Halpern Enterprises, Inc. c/o Battle Law, P.C.	
		Address: One West Court Square, Suite 750, Decatur, GA 30030	
Phone: 404-601-7616		Fax: 404-745-0045	
Cell:		Email: mlb@battlelawpc.com	
Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements?			
☐ Yes ☒ No			
1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties?			
Please see attached Statement of Intent and Impact Analysis			
2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned?			
3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?			
Questionnaire	4. Are other existing or changing conditions affecting the existing use or usability of the development of the property which give supporting grounds for either approval or disapproval of the zoning proposal?		
	5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources?		
	6. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?		



Affidavit	To the best of my knowledge, this zoning application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Stonecrest Zoning Ordinance.		
	Halpern Enterprises, Inc.		
	Applicant's Name: <u>Matthew Openheimer</u>		Date: <u>5/23/19</u>
	Applicant's Signature: <u>[Signature]</u>		
Notary	Sworn to and subscribed before me this <u>23</u> Day of <u>May</u> 20 <u>19</u>		
	Notary Public: <u>Dara W. Tabb</u>		
	Signature: <u>[Signature]</u>		
	My Commission Expires: <u>December 29, 2020</u>		
Fee	☐ Application Fee ☐ Sign Fee ☐ Legal Fee		
	Fee: \$	Payment: ☐ Cash ☐ Check ☐ CC	Date:
	☐ Approved ☐ Approved with Conditions ☐ Denied		Date:

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



DISTRIBUTION COVER SHEET

DATE: June 4, 2019

VIA: Priority Mail

Client/Matter Ref.: 6024 Covington Hwy/1850 Phillips Road

ATTN: Chris Wheeler
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038

Enclosed please find check #0133 in the amount of \$500.00 relating to **6024 Covington Highway matter** and checks **#54928 (\$2,290.00)** and **#54929 (\$290.00)** relating to **1850 Phillips Road matter**. Please call us with any questions or concerns.

Prepared By:

Batoya Clements
For Battle Law, P.C.

Batoya Clements

From: noreply-portal@citizenserve.com
Sent: Thursday, May 30, 2019 3:56 PM
To: Batoya Clements
Subject: Your application has been received

THE CITY OF STONECREST, GA ONLINE DEVELOPMENT APPLICATION RECEIVED

Your development application has been received and is currently under review.

RZ19-000009

Type: Change in Zoning Amendment

Application Date: 05/30/2019

Address: 6024 Covington Highway

Description: The Applicant, Halpern Enterprises, Inc., is seeking to rezone 3.7818 acres of the property located at 6024 Covington Highway (the ?Subject Property?) from MR-2 to C-1 for the future development of uses permitted under the C-1 Zoning District Regulations. The Subject Property has a land use designation of Neighborhood Center.

Applicant: Batoya Clements

Amount Paid: 0.00

[CLICK HERE TO VIEW YOUR APPLICATION](#)

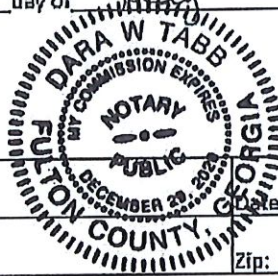
The logo for citizenserve, with "citi" in blue, "en" in red, and "serve" in blue.

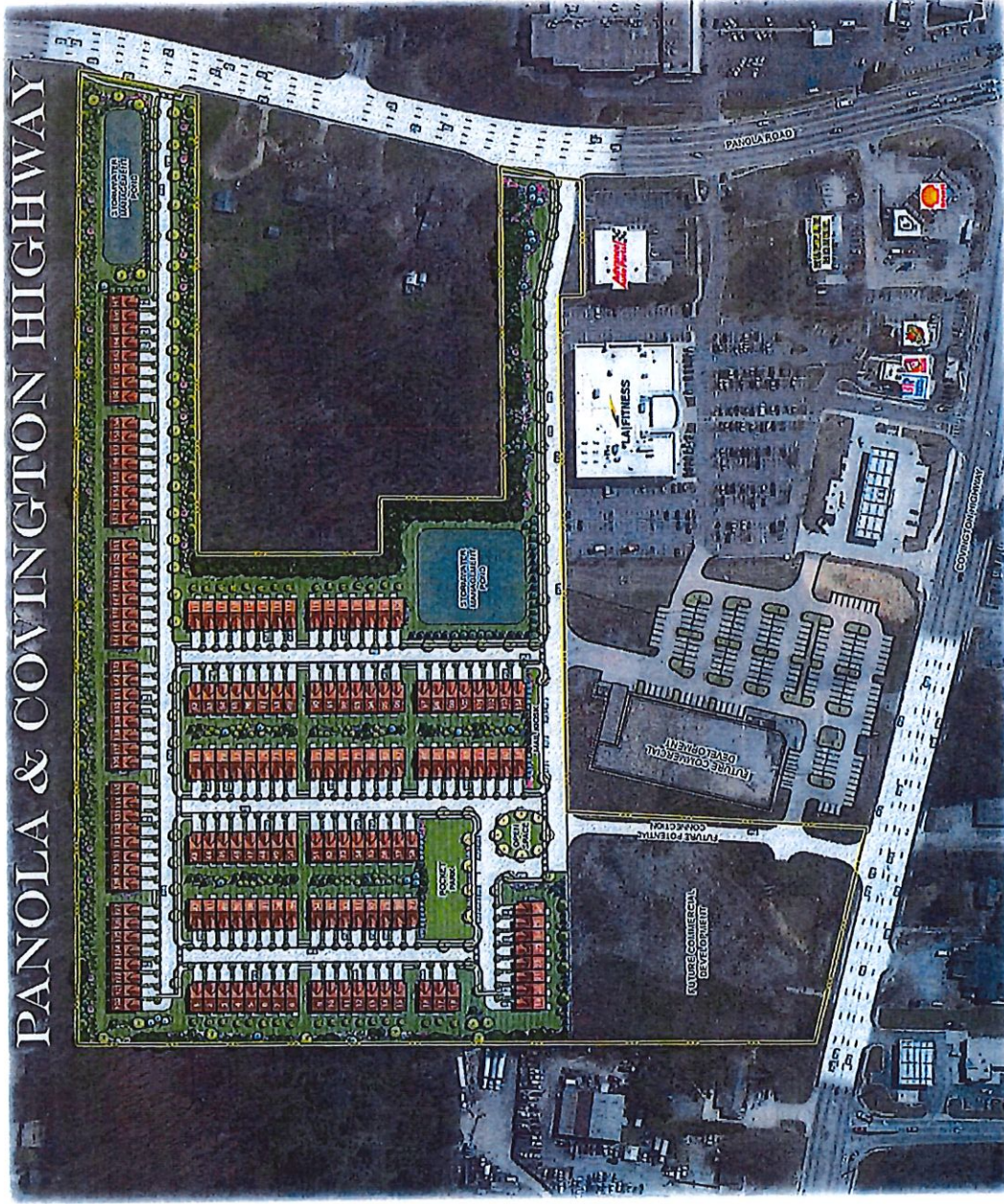


Property Owner(s) Notarized Certification

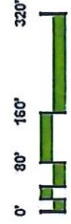
The owner and petitioner acknowledge that this Zoning Map Petition application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for zoning amendment, and authorization of an applicant or agent to act on their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

Property Owner (If Applicable)	Signature: <u>[Signature]</u>	Date: <u>5/23/19</u>	
	Address: <u>5200 ROSWELL RD NE A</u>	City, State: <u>Atlanta, GA</u>	Zip: <u>30342</u>
	Phone: <u>770-508-3338</u>		
	Sworn to and subscribed before me this <u>23</u> day of <u>May</u> , 20 <u>19</u>		
Property Owner (If Applicable)	Notary Public:	<u>Dara W. Tabb</u>	
	Signature: <u>[Signature]</u>	Date: <u>5.23.19</u>	
	Address:	City, State:	Zip:
	Phone:		
Property Owner (If Applicable)	Sworn to and subscribed before me this _____ day of _____, 20____		
	Notary Public:		
	Signature:	Date:	
	Address:	City, State:	Zip:
Property Owner (If Applicable)	Phone:		
	Sworn to and subscribed before me this _____ day of _____, 20____		
	Notary Public:		





GROSS ACRES:	24.212 AC.
PROPOSED ZONING:	MR-2/ FULLY CITY OF STONECREST & I-20 TIER 2 OVERLAY
TOTAL UNITS:	167 UNITS
TOTAL DENSITY:	6.9 U/A
UNIT WIDTH:	22' MINIMUM
BUILDING SETBACKS	
FRONT:	0'
REAR:	10'
SIDE (INTERIOR):	10'
OPEN SPACE:	20% OR 4.8 ACRES



ROCKLYN HOMES
The Most Important Home We'll Build Is Yours

ALLIANCE
ENGINEERING + PLANNING
LANDSCAPE ARCHITECTURE

Environmental Site Analysis (ESA)

1. **Conformance with the Comprehensive Plan.** The Subject Property is located near the northwestern corner of Panola Road and Covington Highway located in the City of Stonecrest. The Stonecrest Comprehensive Map shows the Subject Property as having a land use designation of Neighborhood Center. It is the Applicant's intent to rezone the Subject Property from MR-2 and C-1 to allow for the development of a commercial project.
2. **Environmental Impacts of the Proposed Project.**
 - (a) **Wetlands.** According to the National Wetlands Inventory Wetlands Mapper, the Subject Property is not located within any area designated as wetlands
 - (b) **Floodplain.** According to the FEMA National Flood Hazard interactive mapping system, the Subject Property is in an area of minimal flood hazard Zone X.
 - (c) **Streams/stream buffers.** Based on fields observation and verification by the Applicant's surveyor, there are no streams located on the Subject Property.
 - (d) **Slopes exceeding 33 percent over a 10-foot rise in elevation.** Based on fields observation and verification by the Applicant's surveyor, there are no slopes exceeding 33 percent over a 10-foot rise in elevation on the Subject Property.
 - (e) **Vegetation (including endangered species).** The Subject Property is heavily wooded, however, to the Applicant's knowledge, based on field observation there are no endangered species located on the Subject Property.
 - (f) **Wildlife Species (including fish and endangered species).** Based on field observation, to the Applicant's knowledge, there are no endangered species located on the Subject Property.
 - (g) **Archeological/Historical Sites.** Based on field observation, to the Applicant's knowledge, there are no archeological or historical sites located on the Subject Property.
3. **Project Implementation Measures**
 - (a) **Protection of environmentally sensitive areas.** There are no environmentally sensitive areas located on the Subject Property.
 - (b) **Protection of water quality.** All stormwater runoff generated from a site shall be adequately treated before discharge in accordance with City of Stonecrest development regulations.
 - (c) **Minimization of negative impacts on existing infrastructure.** The existing infrastructure surrounding the Subject Property will not be negatively impacted by the development of the proposed project. It is the Applicant's intent to comply with all City of Stonecrest development regulations, and to connect into the existing utilities in the area in order to minimize disturbance.
 - (d) **Minimization on archeological/historically significant area.** To the Applicant's knowledge, there are no archeological/historically significant areas located on or near the Subject Property.

Environmental Impact Report

1. **Environmental Adverse Uses.** To the Applicant's knowledge, there will not be any environmentally adverse uses of the Subject Property.
2. **Impact on noise levels of the surrounding area.** The use of the Subject Property will be in compliance with the County rules and regulations regarding noise levels. As the use on the Subject Property will be wholly contained within the proposed improvements with adequate and required noise buffering, there should be no impact on the surrounding area from the proposed use of the Subject Property.
3. **Impact on air quality of surrounding area.** As previously stated, the proposed project will not generate any measurable dust, vibrations, odor, glare, emissions or noise beyond the Subject Property.
4. **Impacts of water quality/resources.** All stormwater runoff generated from a site shall be adequately treated before discharge in accordance with City of Stonecrest development regulations.
5. **Impacts on vegetation, fish and wildlife species.** There are no state waters, made ponds or other water features on Subject Property. To the best of Applicant's knowledge there is no wildlife located on or near the Subject Property. The Subject Property is heavily wooded and will be cleared in accordance with all local laws and regulations.
6. **Impacts of thermal and explosive hazards on the surround areas.** The Subject Property will be used for the development of a townhome community. Currently there is no intent for thermal or explosive hazards to be located on the Subject Property, and to the extent that any such uses may be located on the Subject Property in accordance with the District Regulations, such uses will be conducted in accordance with all Federal, State and local laws and regulations.
7. **Impacts of hazardous wastes on the surrounding area.** The Subject Property will be used for a townhome community and commercial component, and to the extent that any hazardous waste is generated in connection with the operation of any business to be located on the Subject Property in accordance with the District Regulations, such waste shall be disposed of in accordance with all Federal, State and local laws and regulations.
8. **Minimization of negative impacts on environmentally stressed communities.** The proposed uses in the proposed project are generally compatible with nearby commercial communities, as the use will be contained wholly within the properties, and to the knowledge of Applicant, will not generate any measurable dust, vibrations, odor, glare, emissions or noise beyond the Subject Property. Furthermore, to the best of the Applicant's knowledge, there are no environmental stressed communities within the general vicinity of the Subject Property.

Public Participation Plan

Applicant: Halpern Enterprises, Inc.

1. The applicant will send out notices for the proposed community meeting to those property owners identified in the property owner list generated by the City of Stonecrest and provided to the applicant at the time of submission of this application.
2. The property owners will be notified of the community meeting by postcard.
3. The applicant will hold a community meeting at 7:00pm at a location to be determined, which will be at a location within a one to two mile radius of the subject property.
4. Mailing list and copy of the letter to be mailed is attached.

STATEMENT OF INTENT AND
IMPACT ANALYSIS

and

Other Material Required by
City of Stonecrest Zoning Ordinance
for the
Application for Rezoning

of

Halpern Enterprises, Inc.
c/o Battle Law, P.C.

for

3.7818± acres of land located at
6024 Covington Highway

City of Stonecrest, Georgia

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, Georgia 30030
(404) 601-7616 Phone
(404) 745-0045 Facsimile
www.battlelawpc.com

I. STATEMENT OF INTENT

The Applicant, Halpern Enterprises, Inc., is seeking to rezone 3.7818 acres of the property located at 6024 Covington Highway (the "Subject Property") from MR-2 to C-1 for the future development of uses permitted under the C-1 Zoning District Regulations. The Subject Property has a land use designation of Neighborhood Center.

This document is submitted both as a Statement of Intent regarding this Application, a preservation of the Applicant's constitutional rights, and the Impact Analysis of this Application as required by the City of Stonecrest's Zoning Ordinance. A surveyed plat and conceptual site plan of the Subject Property controlled by the Applicant has been filed contemporaneously with the Application, along with other required materials.

The Subject Property was rezoned to PC-2 (now MU-5) by the DeKalb County Board of Commissioner in 2006 pursuant to CZ-06-1745 in connection with a Development of Regional Impact ("DRI Project") for a mixed-use project on 35.89 acres of land (the "Project Site"), which included the development of commercial out parcels along Covington Highway. Due to the economic downturn in 2007, the DRI Project was never built out. Instead, portions of the Project Site were slowly sold off by the Applicant, as the owner of the Project Site for commercial development for, amongst other things, LA Fitness, the Lidl Grocery Store to be built, Murphy Oil currently under construction and Dunkin Donuts. All that remains of the original DRI project is the Subject Property and the adjacent 20.43 acre tract of land (the "Townhome Tract") now owned by Rocklyn Homes.

In 2018, the Applicant, together with Rocklyn Homes, Inc., annexed into the City of Stonecrest the portions of the Subject Property and the Townhome Tract that remained in unincorporated DeKalb County. At that time, the entire 24.24 acres (the "Original Parent Tract")

comprising the Subject Property and the Townhome Tract, were one tract of land. In connection with the annexation the entire property was rezoned to MR-2 Conditional for the development of 167 townhomes, subject to 24 conditions. As it was anticipated that the Subject Property would have to be rezoned to C-1, the 24 conditions included some conditions that would also be applicable to the Subject Property once rezoned to C-1. Subsequent to the rezoning, the Original Parent Tract was subdivided into the Subject Property (6024 Covington Highway) and the Townhome Tract (2217 Panola Road).

The rezoning of the Subject Property to C-1 will allow for the development of commercial uses which are consistent with surrounding parcels with frontage on Covington Highway. The Townhome Tract does not have frontage on Covington Highway. The Subject Property is located adjacent to 6038 Covington Highway which has been purchased by Lidl Us Operations, LLC for the development of a grocery store. It is the Applicant's desire to develop the Subject Property for uses which will complement the surrounding uses and complete the redevelopment of the property owned by the Applicant, which was apart of the now defunct DRI project. In order to achieve this objective, the Applicant is seeking to rezone the Subject Property to C-1, subject to the proposed conditions submitted with this Application.

II. IMPACT ANALYSIS

- (a) Suitability of use: The proposed rezoning will permit uses that are suitable in view of the uses and developments adjacent and nearby the Subject Property. Covington Highway and Panola Road is a commercial node. Prior to the annexation, the entire Parent Parcel was zoned C-1. So, the proposed rezoning will simply allow for the Subject Property to

return to its prior use, but now with conditions which will enhance the development of the Subject Property.

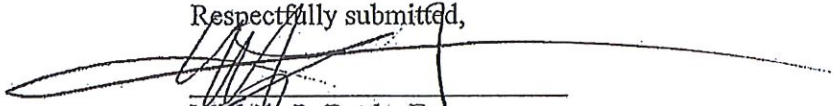
- (b) Effect on adjacent property: The uses of the Subject Property as contemplated in this Application will have no adverse impact on the adjacent property owners. The Subject Property is abutted by other commercially zoned properties with frontage on Covington Highway, and by the Townhome Tract to the rear. The Townhome Tract does not negatively impact the proposed rezoning of the Subject Property, as the residential development is intended to support the commercial node as part of a mixed-use project area. Additionally, the proposed development will allow for the continued development and resurgence of the Covington Highway/Panola Road corridor.
- (c) Economic use of current zoning: The Subject Property has no use as currently zoned, as the Subject Property is conditioned on a site plan that shows no improvements on the Subject Property. Therefore, the Subject Property can only be developed if it is rezoned,
- (d) Effect on public facilities: The Subject Property is in an area with public utility availability. The proposed rezoning will not cause excessive use of streets, transportation facilities, or utilities in the area, as Covington Highway is an arterial thoroughfare.
- (e) Effect on historic building, sites, etc. The approval of this Application will not have any adverse impact on any historic buildings, sites, districts or archaeological resources in the area.
- (f) Environmental Impact. Based upon the Environmental Site Analysis, the approval of this Application will not result in any adverse environmental impact.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved, subject to the submitted conditions. The Applicant also invites and welcomes any comments from Staff or other officials of City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application. Please note that the Applicant's Notice of Constitutional Allegations and Preservation of Constitutional Rights have been submitted with this Application and are attached hereto and by this reference incorporated herein.

This 23rd day of May, 2019.

Respectfully submitted,



Michele L. Battle, Esq.
Attorney For Applicant

NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF
CONSTITUTIONAL RIGHTS

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

The application of the DeKalb County 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 I of the Constitution of the State of Georgia.

A refusal by the DeKalb County Board of Commissioners to rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject 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 rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

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

The existing zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the County an opportunity to revise the Property to a constitutional classification. If action is not taken by the County to rectify this unconstitutional 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.



PLANNING COMMISSION

RZ-19-006 **Attachment #3**

08/20/2019 PowerPoint **Presentation**



August 6th 2019

Planning Commission Public Hearing



RZ-19-006

**2193 Panola Road, Stonecrest GA
30038**



Petition Information

- APPLICANT: Halpern Enterprise, Inc.
- LOCATION: 6024 Covington Hwy
- ACREAGE: 3.78 acres
- REQUEST: The applicant is requesting to rezone the subject property from MR-2 to C-1 for future commercial development.



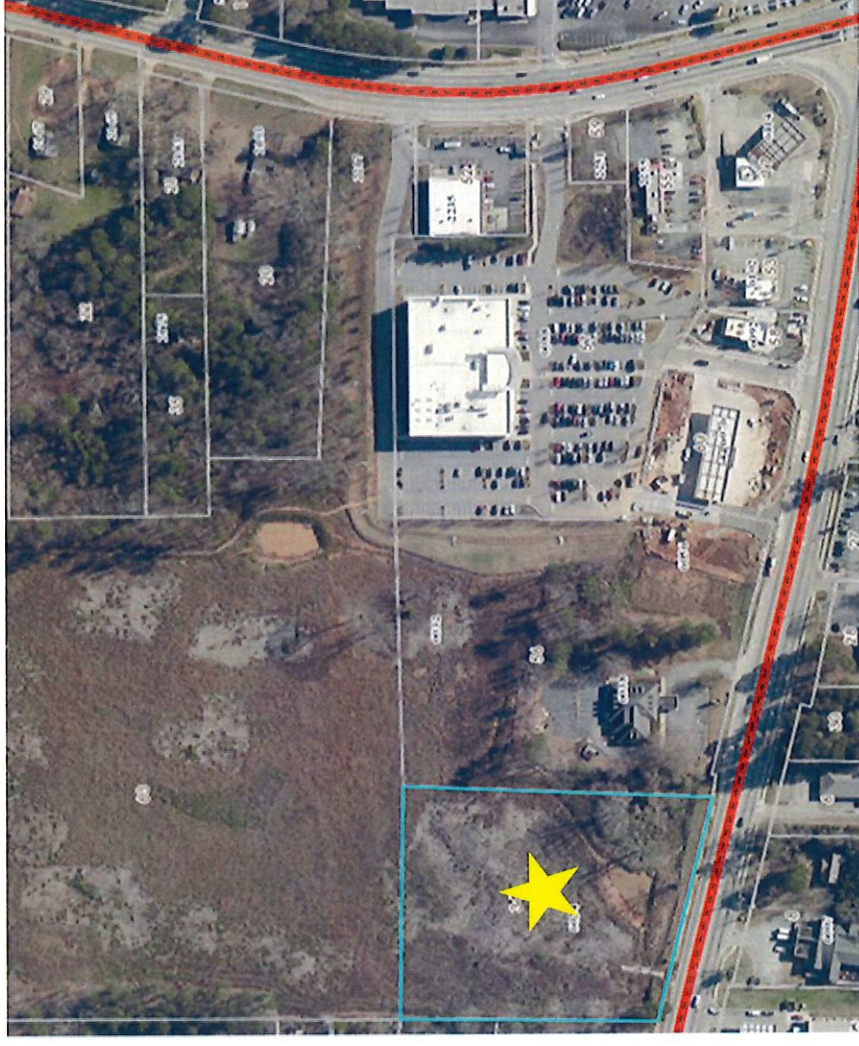
General Information

- Current zoning: MR-2 (Med Density Residential) District
- Future Land Use Character Area: Neighborhood Center
- Policies / Intent for this area emphasize:
 - Identify areas that can serve everyday local neighborhood needs, for goods and services.
 - Promote healthy living in neighborhood by incorporating a pedestrian environment that encourages socialization, walking , biking and connectivity.
- Surrounding uses: Residential and Commercial.
- Surrounding zoning:C-1 (Local Commercial and MR-2 (Med Density Residential)

Background Information

Currently, the property is zoned MR-2 under Stonecrest zoning case AX-18-0001. The subject property was part of 11.63 acres annexation application file by the applicant August 2018.

Seven acres of the original eleven acres is currently being develop for a townhome development. The property has a mixture of young and mature hardwood trees. The topography of the property is characterized as being even throughout.



Aerial Map



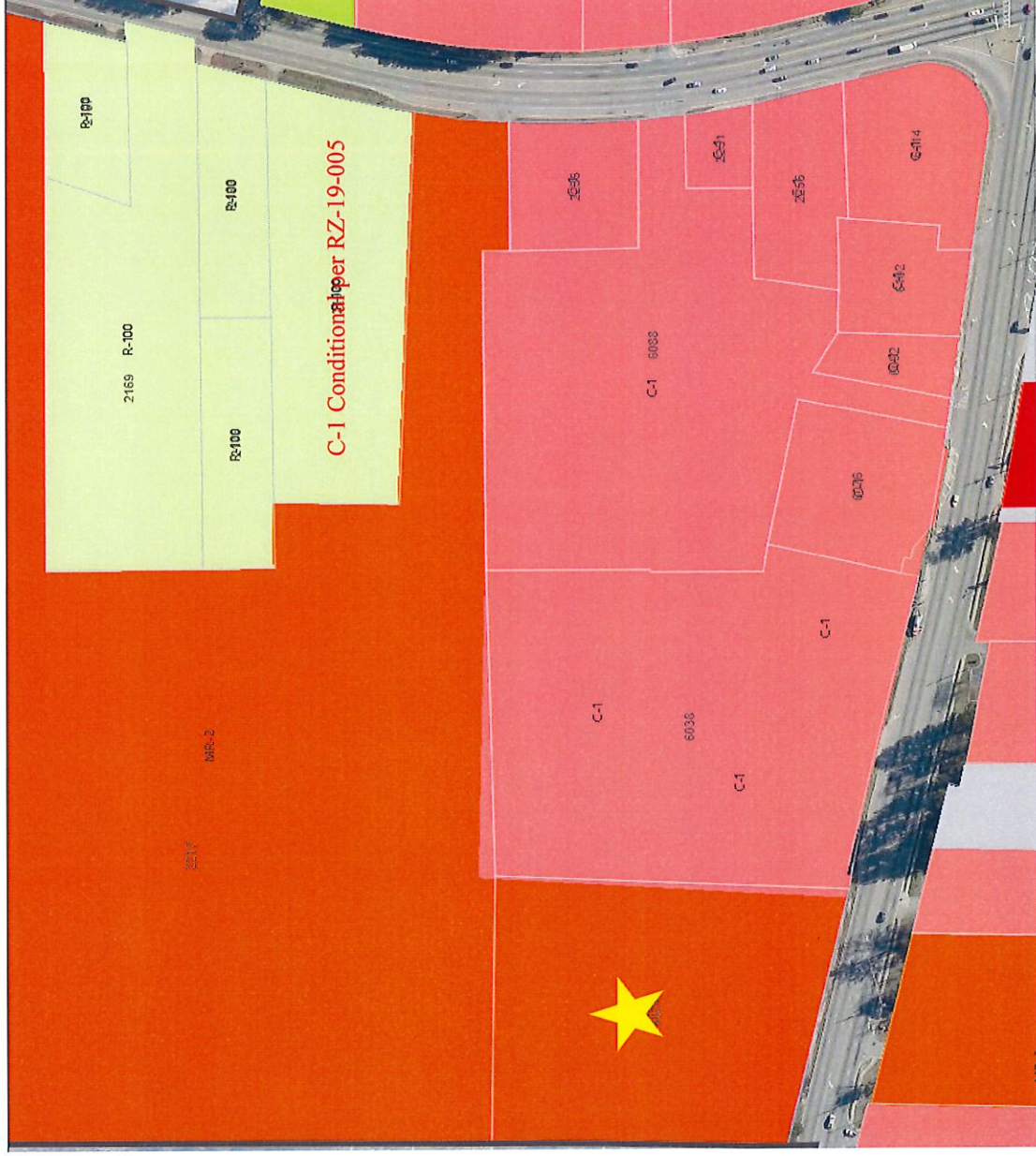
ZONING CASE: RZ-19-006

ADDRESS: 6024 Covington Hwy
CURRENT ZONING: MR-2 Conditional
FUTURE LAND USE: NEIGHBORHOOD CENTER

0 0.05 0.1 mi



Zoning Map



ZONING CASE: RZ-19-006

ADDRESS: **6024 Covington Hwy**

CURRENT ZONING: **MR-2**

FUTURE LAND USE: **Neighborhood Center**

0 0.025 0.05 mi

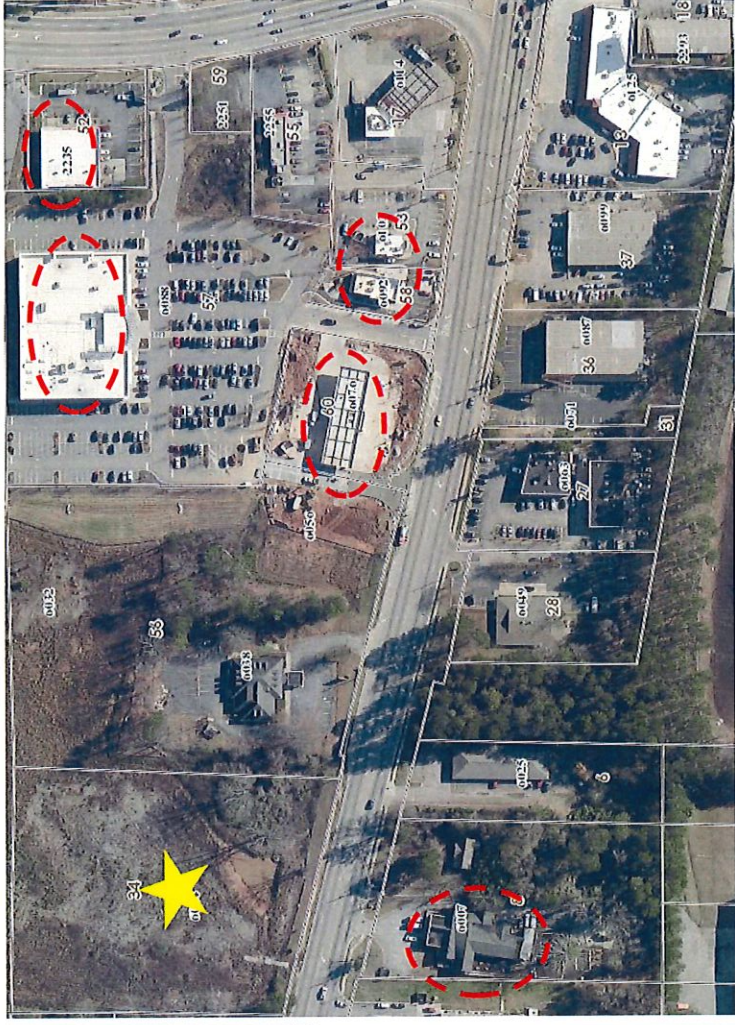
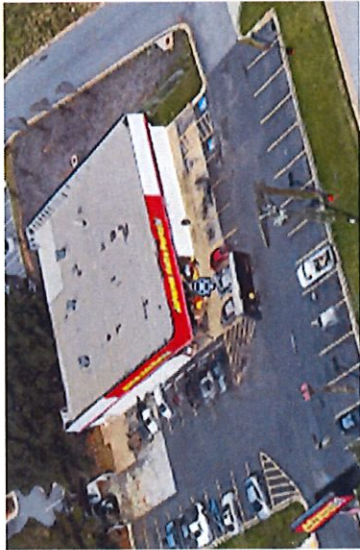
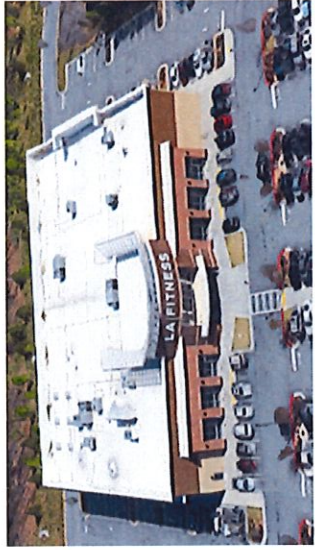


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STANDARDS OF REVIEW

- Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.
- Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.
- Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
- Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.
- Whether there are other existing or changing conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the zoning proposal.
- Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.
- Whether the zoning proposal will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

Zoning Review-Permit a use that is suitable in view of the use and development



Zoning Review- Conformity with Policy and Intent of Comp Plan



- Identify area that can serve everyday local neighborhood needs, for goods and services.
- “Concentration of activities such as general retail, neighborhood services, professional office higher-density”
- Promote healthy neighborhoods by incorporating a pedestrian environment that encourages socialization, walking and biking.



Zoning Review

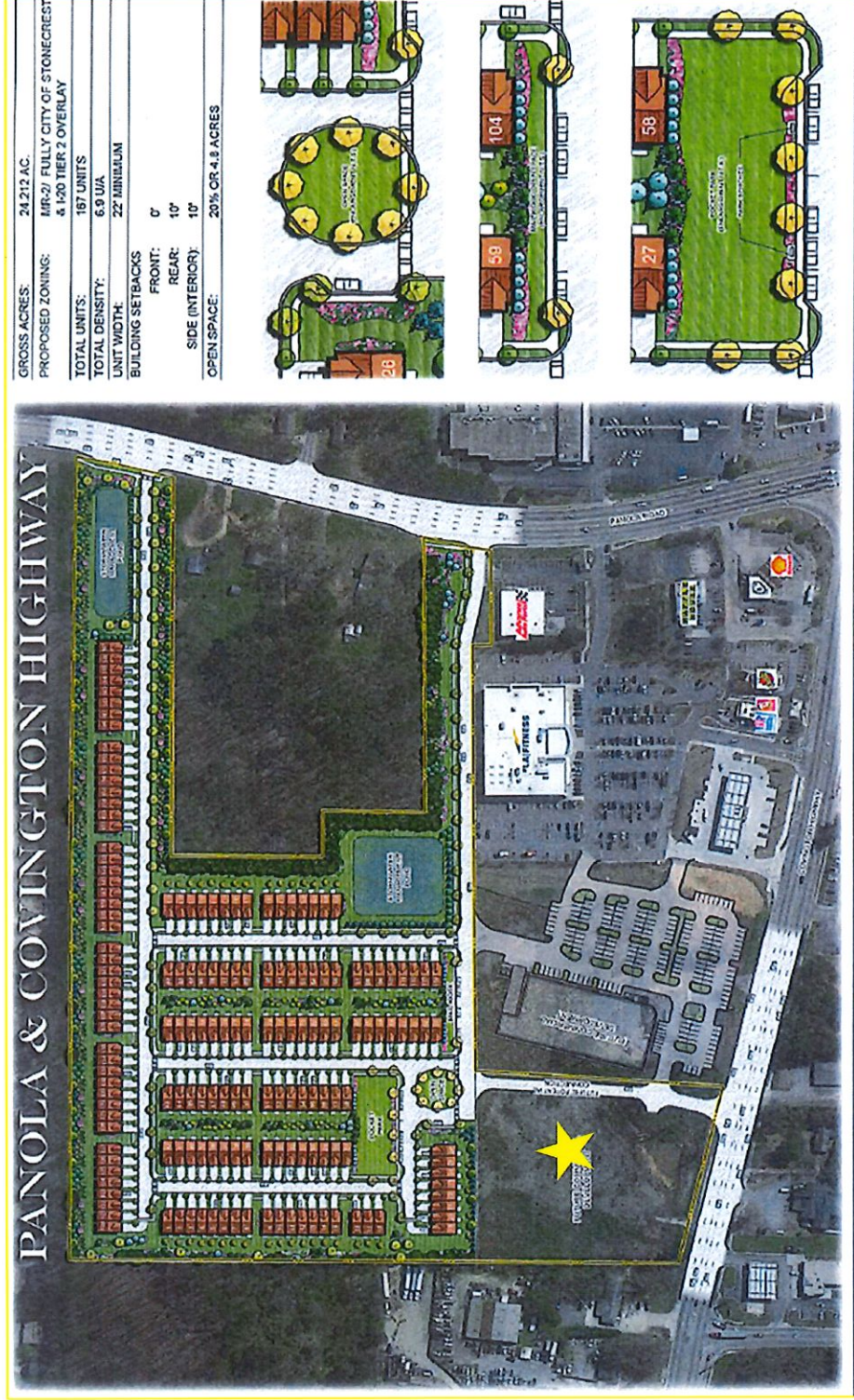
Reasonable Economic Use

- Currently zoned MR-2 which permits the development of detached single-family home and multi family development with a minimum lot size ranging from 5,000 square feet to 1,000 feet

Adversely affect environmental and historic sites

- There are currently no historic building, sites, districts or archaeological resources on the subject property.
- The zoning proposal will not adversely impact the environment or surrounding natural resources. The applicant will have to provide for the management of stormwater according to the City's regulations and state regulations.

Zoning Review- Conditions giving either approval or disapproval / Affect existing use or usability of nearby properties



Zoning Review- Excessive use of streets, transpiration, utilities and schools.



Staff Analysis

The proposed use is consistent in use with the surrounding uses. Staff believes the proposed use is suitable in view of the use and development of adjacent and nearby properties, therefore, the Department of Community Development recommends **Approval of RZ-19-006**



Staff Recommendation

Staff recommends Approval of Land Use Petition RZ-19-006 with the following conditions:

1. 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, specifically excluding high rise climate controlled self-storage
 - 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

Staff Recommendation

2. The site shall be developed in general conformance with the site plan received by the City on May 7th, 2019.
3. Final elevations shall be subject to review and approval of the Community Development Director.
4. Owner/Developer shall install a five foot (5') wide sidewalk along the entire frontage of Covington Hwy.
5. Owner/Developer shall obtain all permits required by the City of Stonecrest in accordance with the development of the subject property.
6. Water and sewer approval is required by the DeKalb County Department of Watershed Management

Planning Recommendation

Planning Commission recommends **Approval** of Land Use Petition RZ-19-006 with the following conditions:

1. 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, specifically excluding high rise climate controlled self-storage
 - 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

Planning Commission

Recommendation

3. Final elevations shall be subject to review and approval of the Community Development Director.
4. Owner/Developer shall install a five foot (5') wide sidewalk along the entire frontage of Covington Hwy.
5. Owner/Developer shall obtain all permits required by the City of Stonecrest in accordance with the development of the subject property.
6. Water and sewer approval is required by the DeKalb County Department of Watershed Management



CITY COUNCIL AGENDA ITEM

SUBJECT: Ordinance for Rezoning Application
RZ-19-007 (1794, 1800, & 1850 Phillips Road)

☐ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**

☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☒ **OTHER**

Date Submitted: 08/20/2019

Work Section:

Council Meeting: 08/26/2019

SUBMITTED BY: Christopher Wheeler, Planning and Zoning Director

PURPOSE: To change the zoning from R-100 (Residential Med Lot) to RSM (Small Lot Residential) to construct 240 attached townhomes.

HISTORY: This application was heard at the August 6th, 2019 Planning Commission Meeting. Staff recommended deferral of the application so the applicant could provide a traffic study. The applicant agreed and requested a deferral as well. The Planning Commission recommend a full cycle deferral of the application citing the need to complete the traffic study and more community meetings with the surrounding community.

OPTIONS: Approve; Deny; or make Alternative conditions

RECOMMENDED ACTION:

Planning Commission recommended full cycle deferral of petition RZ-19-007 at the August 6th, 2019.

ATTACHMENTS:

- # 1 08/20/19 Staff Report
- # 2 08/20/19 Application
- # 3 08/20/19 Power Point Presentation



PLANNING COMMISSION

RZ-19-007 **Attachment #1**

08/20/2019 Staff Report



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-007

Planning Commission Aug 6th, 2019 / Mayor and City Council Meeting Aug 26th, 2019

GENERAL INFORMATION

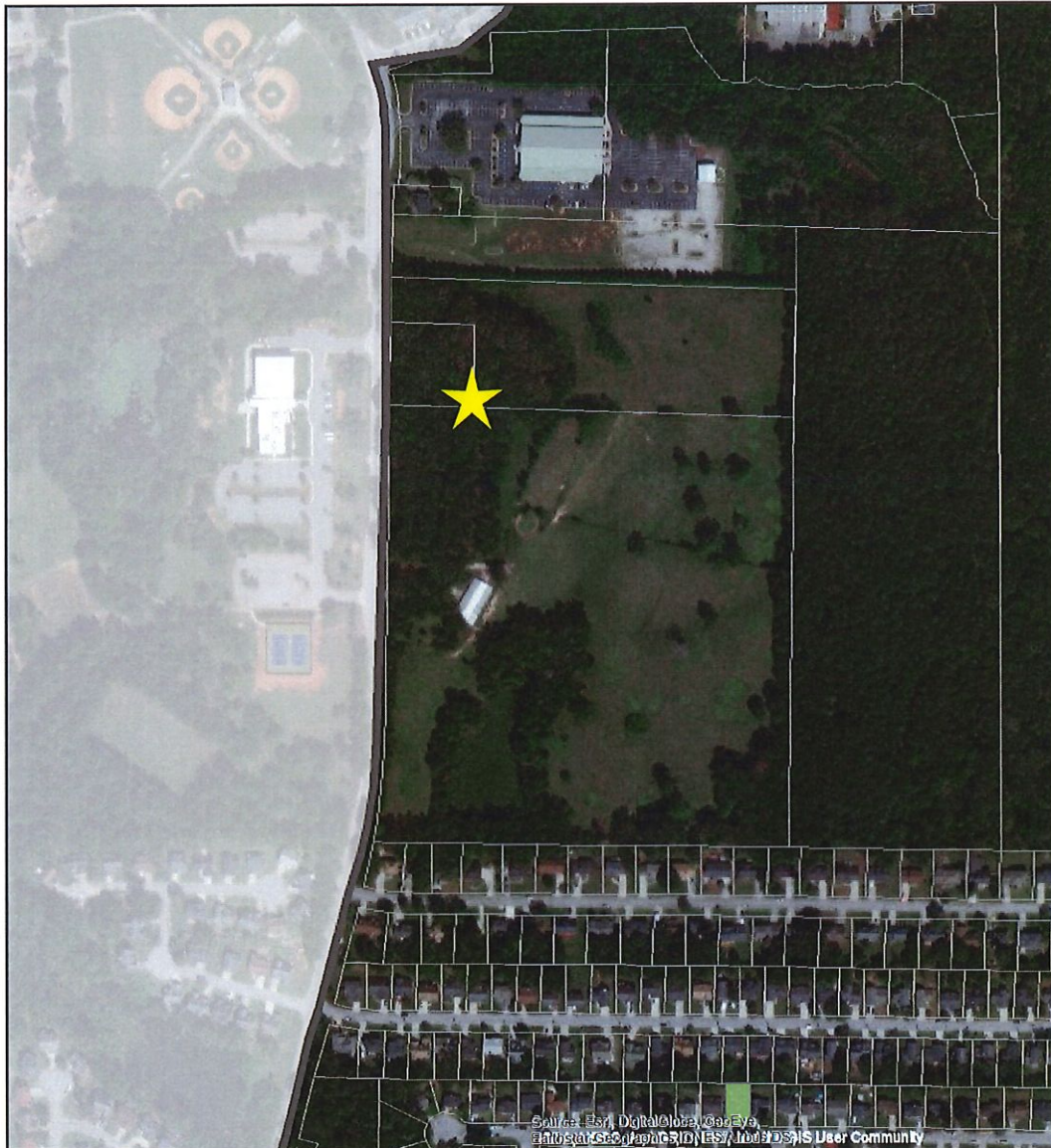
Petition Number:	RZ-19-007
Applicant:	Rocklyn Homes c/o Battle Law
Owner:	Estate of Melba Harris and Teresa Cato
Project Location:	1794, 1800 & 1850 Phillips Road
District:	District 1
Acreage:	30.10
Existing Zoning:	R-100 (Residential Med Lot) District
Proposed Zoning:	RSM (Small Lot Residential Mix) District
Comprehensive Plan Community: Area Designation	Suburban
Proposed Development/Request:	The applicant is requesting to rezone the subject properties from R-100 to RSM for the development of 240 fee simple attached townhomes.
Staff Recommendations:	Deferral
Planning Commission:	Deferral full cycle



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-007

Aerial Map



ZONING CASE: **RZ-19-007**

ADDRESS: **1794, 1800 & 1850 Phillips Rd**

CURRENT ZONING: **R-100**

FUTURE LAND USE: **SUBURBAN**



Subject Property

0 0.05 0.1 mi



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-007

Zoning Map



ZONING CASE: **RZ-19-007**

ADDRESS: **1794, 1800 & 1850 Phillips Rd**

CURRENT ZONING: **R-100**

FUTURE LAND USE: **SUBURBAN**



Subject Property

0 0.05 0.1 mi



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

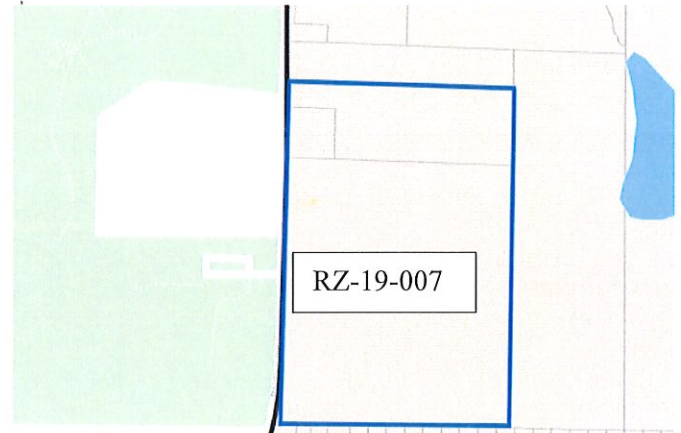
RZ-19-007

PROJECT OVERVIEW

Location

The subject properties are located at 1794, 1800 & 1850 Phillips Road. The properties are approximately 1,000 feet south of Phillips and South Deshon intersection and 2,500 feet south of the Phillips and South Stone Mountain Lithonia Road intersection.

The property is bounded by Phillips Road to the west, by an undeveloped parcel to the north, an undeveloped parcel to the east and residential subdivision (Woods of Redan) to the south.



Background

Currently, the property has kept its original zoning classification of R-100 under Stonecrest Zoning Ordinance. The properties are mainly open pastureland with a scattering of mature hardwoods along the property lines closer to Phillips Road. A freshwater pond is located to the south west portion of the larger parcel. The topography of the property is characterized as being even throughout.



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-007

Proposed Elevations





PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-007





PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-007

Public Participation

Property owners within 500 feet of subject property were mailed notices of the proposed rezoning in July. The community meeting was held on July 11th, 2019 at 6:30 pm at the Redan Recreation Center located at 1839 Phillips Road, Lithonia Georgia 30058. Several residents show up to the community meeting regarding the rezoning application. There were several concerns from residents regarding traffic, home buyers, public notice and zoning process.

STANDARDS OF REZONING REVIEW

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

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

As shown in the table below, the subject property is surrounded by low to medium density housing. * *Please see the map below table*

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use	Density Non-Residential (SF/Acre) Residential (Units/Acre)
Applicant	Proposed: RSM	Residential	8.0 units/Acre
Adjacent: North	R-100	Residential (Undeveloped)	n/a
Nearby: West	R-100	Institutional Use (Unincorporated DeKalb)	n/a
Adjacent: West	MR-1 (CZ-0713333)	Residential	8-12 units/acre
Nearby: North East	RSM (CZ-03075)	Residential (Redan Square)	4-8 units/acre
Adjacent: South	RSM (Small Lot Residential Mix)	Residential (Woods at Redan)	4-8 units/acre
Nearby: North East	M (Light Industrial)	Industrial (Emmanuel Haitian Church)	n/a



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-007

The presence of medium density housing in the surrounding community suggest the proposed development would be suitable for this location.

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

The subject properties are located within the Suburban character area of the Stonecrest Comprehensive Plan. The intent of the character area is to protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density.

The proposed development is in an area transitioning from low density housing to medium density housing. The current character of the area shows many of the surrounding properties to be single-family detached. The proposed use would be in keeping with the policy and intent of the comp plan. Staff would note the density of 8.0 units per acre exceed the current density of the surrounding area even though the density is in the limit of the zoning district. Staff believes the density should be lowered to be similar to the surrounding area.

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

The property is currently zoned R-100 which permits the development of detached single-family home development with a minimum lot size of 15,000 square feet. The property has reasonable economic use a currently zoned.

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

The proposed residential use is not anticipated to have a negative impact on the existing use or usability of adjacent or nearby properties. Staff believe the proposed use of a single-family home attached townhome will be in line with the existing character of the area

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

With the approval of the MR-1 zoning property to the east and the existing RSM zoning classification to the south and north east of the property, its reason to believe the proposed use would be in line with the area, which would give it supporting grounds for approval.

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

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

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



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-007

Access to the property will be Phillips Road which is a collector road. The applicant submits a trip generation report showing trips to and from the development would exceed 100 per trips during peak hours. According to the trip generation, the proposed development is projected to generate approximately 1,764 daily trips (882 in; 882 out), 110 total AM peak hours (25 in; 85 out), and 129 total PM peak hour trips (81 in; 48 out). The staff has requested a traffic impact analysis for further evaluation of the project.

The zoning proposal will not cause an excessive or burdensome on utilities as Dekalb County believes the property has the sewer capacity for residential development.

When fully constructed the proposed development would be expected to create 94 additional students. Twenty-five (25) at Redan ES, eleven (11) at Lithonia MS, sixteen (16) at Lithonia HS and forty (40) at other DCSD schools. All three neighborhood schools have the capacity for additional students. The proposed use will not have an excessive or burdensome use on schools.

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

The zoning proposal will not adversely impact the environment or surrounding natural resources. The applicant intends to preserve the freshwater pond on the property and make it part of their amenity package. The applicant will have to provide for the management of stormwater according to the City's regulations and state regulations.



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

RZ-19-007

STAFF RECOMMENDATION

Staff recommends **Deferral** of Land Use Petition RZ-19-007. However, should the Planning Commission choose to approve the request in whole staff recommends approval shall be subject to the following conditions:

1. The site shall be developed in general conformance with the site plan received by the City on June 4th, 2019.
2. The development shall be limited to the 6.0 units per acre.
3. Exterior elevations shall be similar to the elevations received by the City on June 4th, 2019. Final elevations shall be subject to review and approval of the Community Development Director.
4. Owner/Developer shall install a five foot (5') wide sidewalk along the entire frontage of Phillips Road.
5. Owner/Developer shall obtain all permits required by the City of Stonecrest in accordance with the development of the subject property.
6. Water and sewer approval is required by the DeKalb County Department of Watershed Management.

PLANNING COMMISSION

At August 6, 2019, public hearing the Planning Commission recommend Deferral of Land Use Petition RZ-19-007 for a full cycle. The recommended deferral is to allow more time for the applicant to work with staff and the community to address concerns. The main concern for the community is the number of homes, parking, and traffic generated from the development. Staff concerns are the amount of traffic generated and the density of the development. Planning Commission also voices their concern regarding parking and road width of the streets.



PLANNING COMMISSION

RZ-19-007 **Attachment #2**

08/20/2019 Application



Amendment Application

Owner Information	Owner's Name: Estate of Melba Harris and Teresa Cato			
	Owner's Address: See Exhibit A attached hereto for Owner's Contact Information			
	Phone:		Fax:	
	Email:			
	Property Address: 1794, 1800 & 1850 Phillips Road			Parcel Size: 30.10 acres
	Parcel ID: 16 101 03 009, 16 101 03 010 and 16 101 03 012			
	Current Zoning Classification: R100			
	Requested Zoning Classification: RSM			
	Name: Rocklyn Homes, Inc. c/o Battle Law, P.C.			
	Address: One West Court Square, Suite 750, Decatur, GA 30030			
Property Information	Phone: (404) 601-7616		Fax: 404-745-0045	
	Cell:		Email: mlb@battlelawpc.com	
	Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements?			
	☐ Yes		☒ No	
	1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties?			
	Please see attached Statement of Intent and Impact Analysis.			
	2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned?			
	3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?			
Questionnaire	4. Are other existing or changing conditions affecting the existing use or usability of the development of the property which give supporting grounds for either approval or disapproval of the zoning proposal?			
	5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources?			
	6. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?			



Affidavit	To the best of my knowledge, this zoning application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Stonecrest Zoning Ordinance.		
	Applicant's Name: Rocklyn Homes, Inc.		
Notary	Applicant's Signature: <i>[Signature]</i>		Date: June 3, 2019
	Sworn to and subscribed before me this 3rd Day of June 20 19		
	Notary Public: <i>[Signature]</i>		
Fee	Signature: <i>[Signature]</i>		
	My Commission Expires: March 8, 2020		
	☒ Application Fee ☒ Sign Fee ☒ Legal Fee		
	Fee: \$ 2,290.00		Payment: ☐ Cash ☒ Check ☐ CC
Date: June 3, 2019		Date:	
☐ Approved ☐ Approved with Conditions ☐ Denied		Date:	

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



Applicant/Petitioner Notarized Certification

Petitioner states under oath that: (1) he/she is the executor or Attorney-In-Fact under a Power-of- Attorney for the owner (attach a copy of the Power-of-Attorney letter and type name above as "Owner"); (2) he/she has an option to purchase said property (attach a copy of the contract and type name of owner above as "Owner"); (3) he/she has an estate for years which permits the petitioner to apply (attach a copy of lease and type name of owner above as "Owner").

Applicant / Petitioner	Signature: By: <u>Rocklyn Homes, Inc.</u>		Date: 6/3/2019
	Address: 3505 Koger Blvd Suite 275		City, State: Duluth, GA Zip: 30096
	Phone: 404-424-6723		
	Sworn to and subscribed before me this <u>3rd</u> day of <u>June</u> , 20 <u>19</u>		
Attorney / Agent	Notary Public: <u>L Watson</u>		L WATSON NOTARY PUBLIC GWINNETT COUNTY, GEORGIA MY COMMISSION EXP. MARCH 8, 2020
	Signature: <u>[Signature]</u>		Date: 6/3/2019
	Address: <u>One West Court Sq. #750</u>		City, State: Decatur, GA Zip: 30030
	Phone: 404-601-7616		
		Sworn to and subscribed before me this <u>3rd</u> day of <u>June</u> , 20 <u>19</u>	
		Notary Public: <u>[Signature]</u>	





Campaign Disclosure Statement

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

☐ Yes ☒ No

Applicant / Owner	Signature:	Rocklyn Homes, Inc.
	By:	<i>[Signature]</i>
	Address:	3505 Koger Blvd, Suite 275, Duluth, GA 30096
	Date:	June 3, 2019

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

Date	Government Official	Official Position	Description	Amount



Campaign Disclosure Statement

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

☐ Yes ☒ No

Applicant / Owner	Battle Law, P.C.
	Signature: By:
	Address: One West Court Sq., Suite 750, Decatur, GA 30030
	Date: June 3, 2019

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

Date	Government Official	Official Position	Description	Amount



PLANNING COMMISSION

RZ-19-007 **Attachment #3**

08/20/2019 PowerPoint **Presentation**



RZ-19-007

**1794, 1800 & 1850 Phillips Road,
Stonecrest GA 30038**



Petition Information

- APPLICANT: Rocklyn Homes c/o Battle Law.
- LOCATION: 1794, 1800 & 1850 Phillips Road
- ACREAGE: 30.10 acres
- REQUEST: The applicant is requesting to rezone the subject properties from R-100 to RSM for the development of 240 fee simple attached townhomes.

General Information

- Current zoning: R-100 (Residential Medium Lot) District
- Future Land Use Character Area: Suburban
- Policies / Intent for this area emphasize:
 - Protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density.
 - Promote moderate density, traditional neighborhoods development style residential subdivision.
- Surrounding uses: Residential.
- Surrounding zoning: RSM (Small Lot Residential Mix) and MR-1 (Med Density Residential) and R-100

Background Information

Currently, the property has kept its original zoning classification of R-100 under Stonecrest Zoning Ordinance. The properties are mainly open pastureland with a scattering of mature hardwoods along the property lines closer to Phillips Road. A freshwater pond is located to the south west portion of the larger parcel. The topography of the property is characterized as being even throughout.



Aerial Map



ZONING CASE: RZ-19-007

ADDRESS: 1794, 1800 & 1850 Phillips Rd

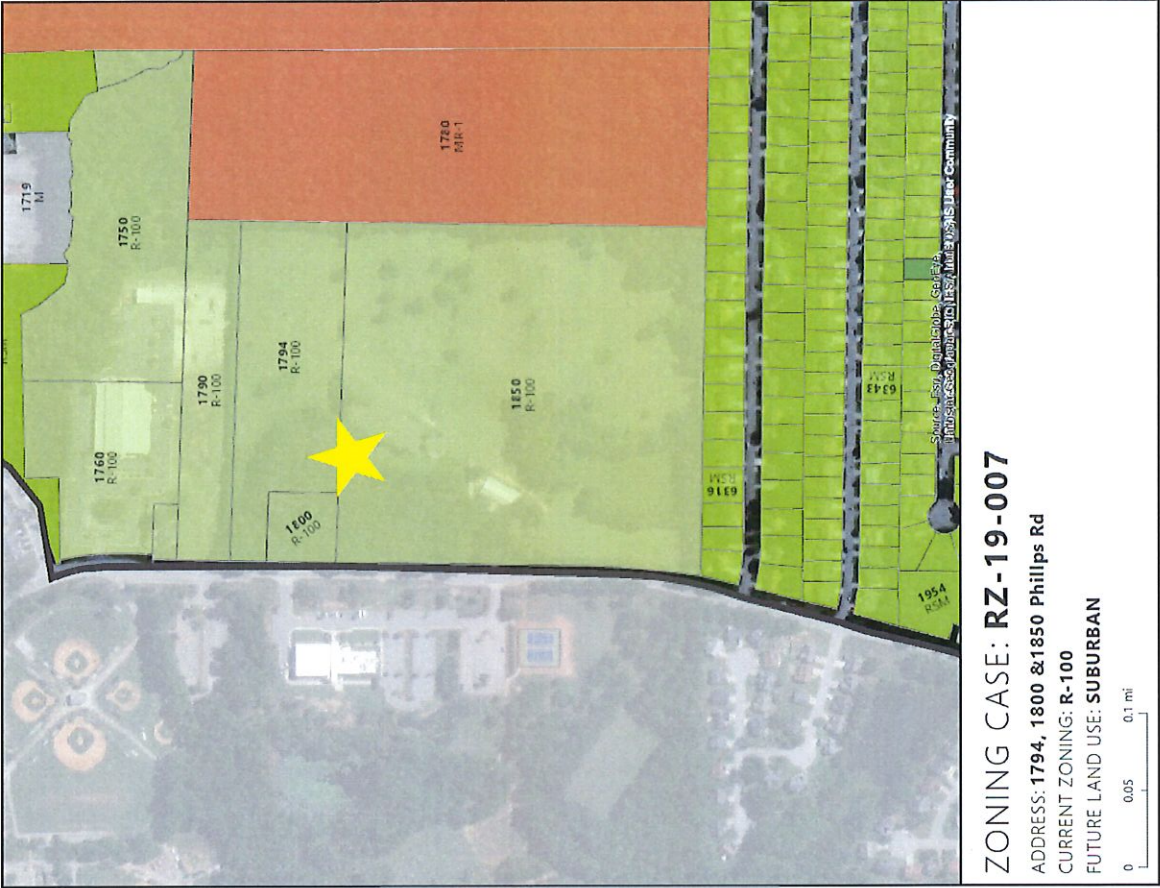
CURRENT ZONING: R-100

FUTURE LAND USE: SUBURBAN

0 0.05 0.1 mi

SAULT STE. MARIE AREA
PLANNING DEPARTMENT

Zoning Map



FLU Map



ZONING CASE: RZ-19-007

ADDRESS: 1794, 1800 & 1850 Phillips Rd

CURRENT ZONING: R-100

FUTURE LAND USE: SUBURBAN

0 0.05 0.1 mi

APALLANCE
ARCHITECTURAL PLANNING
LANDSCAPE ARCHITECTURE
703.283.4729 | www.apallance.com

ROCKLYNN HOMES
The Best Response from West Coast to East

SITE ZONING PLANS FOR PHILLIPS ROAD TRACT

UNCLAS. VLS. WITHIN STREET
CITY OF STONE MOUNTAIN
DEKALB COUNTY, GA
PHILLIPS ROAD

ZONING EXHIBIT
Scale: 1" = 60'
NORTH
Project #
Created by JZ
Checked by JZ

811 CALL BEFORE YOU DIG

POTENTIAL MONUMENT SIGN PER ENTRANCE
EX. RECREATION CENTER DRIVEWAY

RESIDENTIAL CENTER & PARK
POTENTIAL MONUMENT SIGN PER ENTRANCE

EX. POND TO REMAIN

NATURAL STORMWATER POND AMENITY

COMMUNITY EVENT LAWN

MAIL KIOSK

PHILLIPS ROAD

PRIVATE STREET A'

PRIVATE STREET B'

PRIVATE STREET C'

PRIVATE STREET D'

PRIVATE STREET E'

PRIVATE STREET F'

PRIVATE STREET G'

PRIVATE STREET H'

PRIVATE STREET I'

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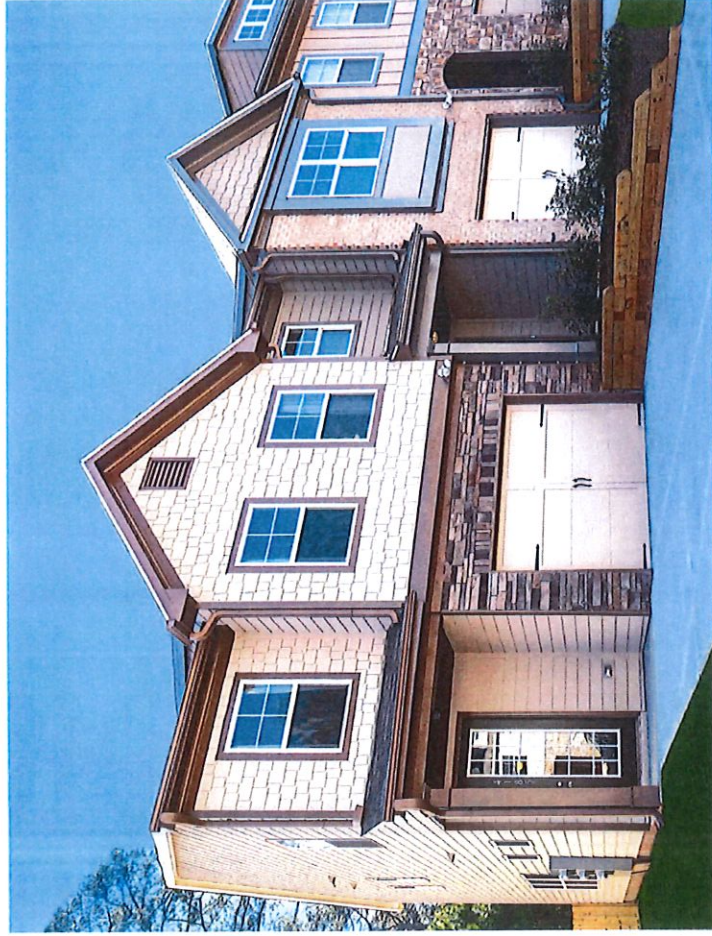
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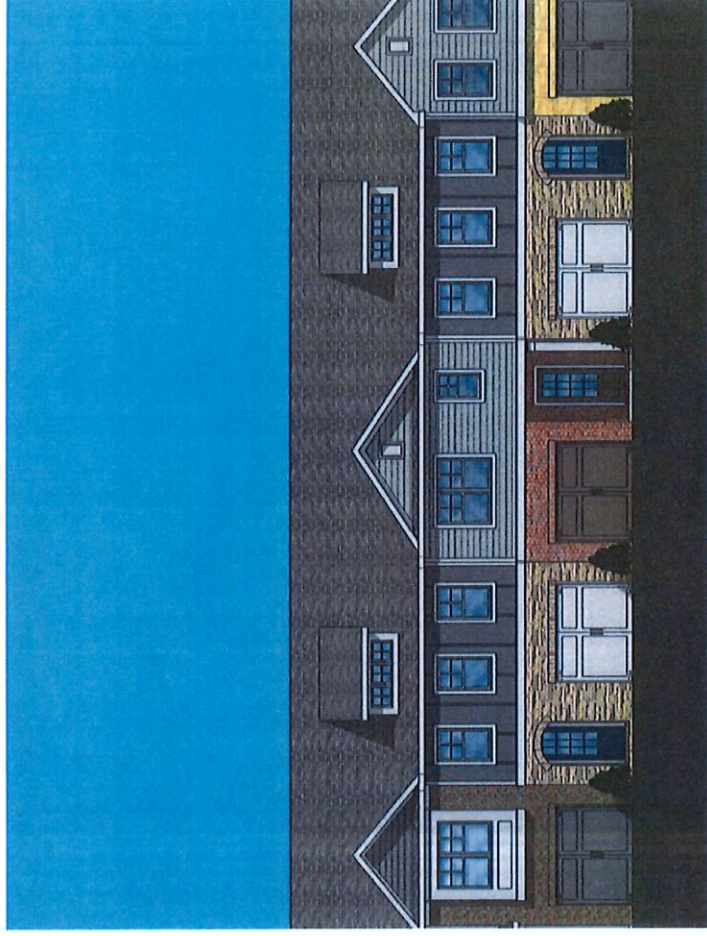
PRIVATE STREET JW'

PRIVATE STREET JX'

Proposed Elevations



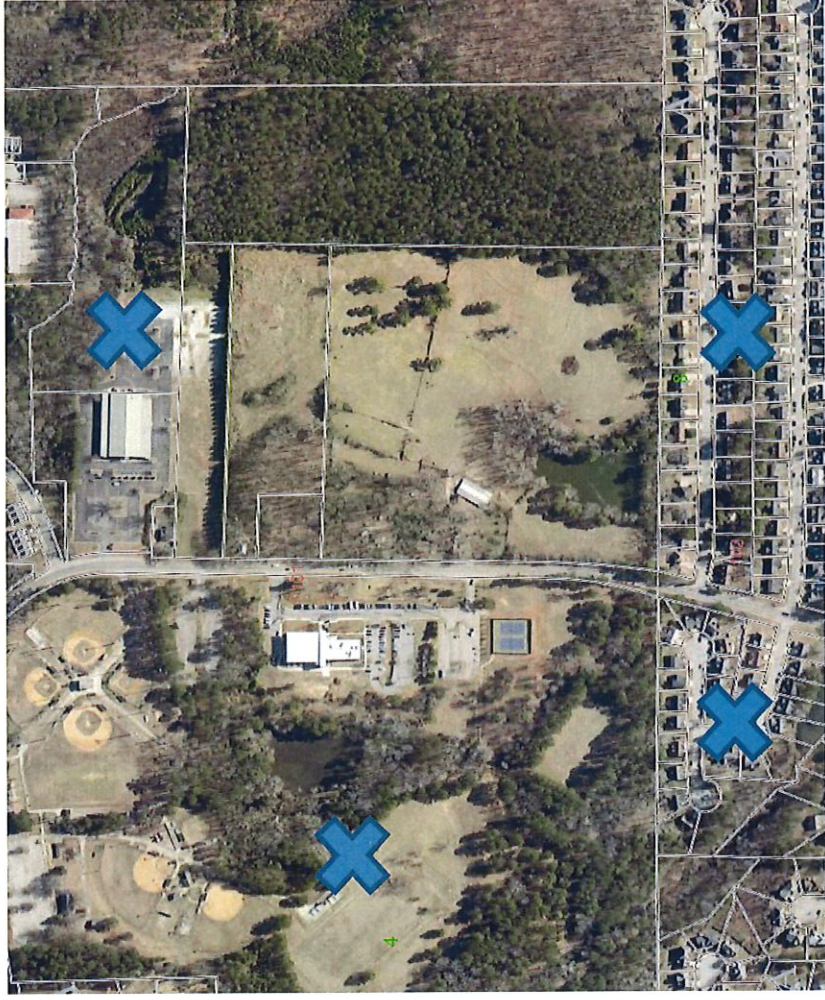
Proposed Elevations



STANDARDS OF REVIEW

- Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.
- Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.
- Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
- Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.
- Whether there are other existing or changing conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the zoning proposal.
- Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.
- Whether the zoning proposal will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

Zoning Review-Permit a use that is suitable in view of the use and development



Zoning Review- Conformity with Policy and Intent of Comp Plan



- Protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density.
- Promote moderate density, traditional neighborhood development style residential subdivision, which may utilize alley ways and rear vehicular access.
- The proposed use would be in keeping with the policy and intent of the comp plan. Staff would note the density of 8.0 units per acre exceed the current density of the surrounding area even though the density is in the limit of the zoning district. Staff believes the density should be lowered to be like the surrounding area.

Standards of Zoning Review

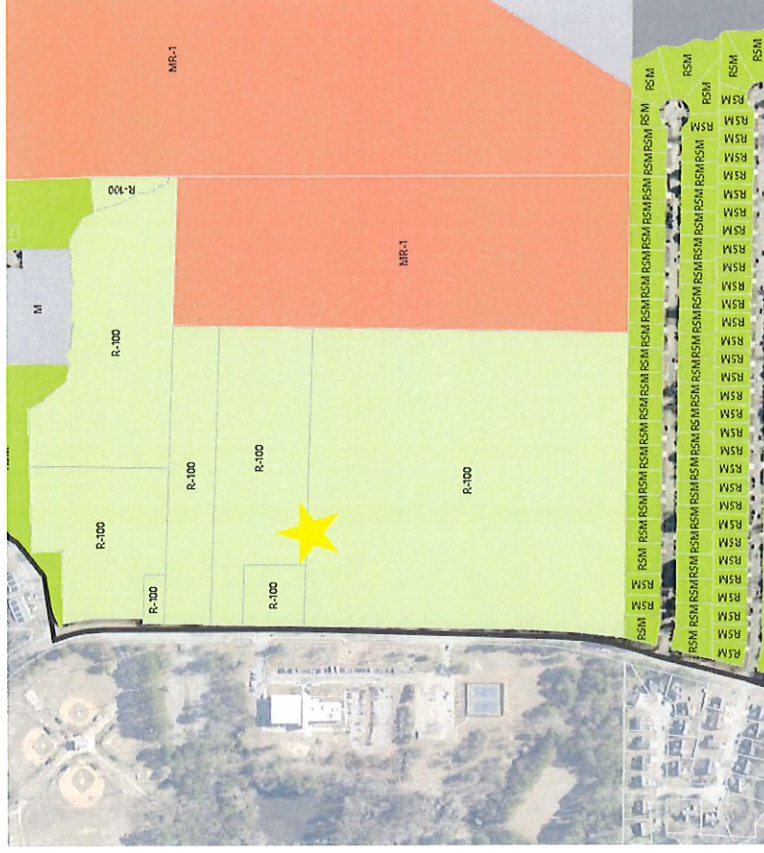
Reasonable Economic Use

- Currently zoned R-100 which permits the development of detached single-family home with a minimum lot size ranging from 15,000 square feet.

Adversely affect environmental and historic sites

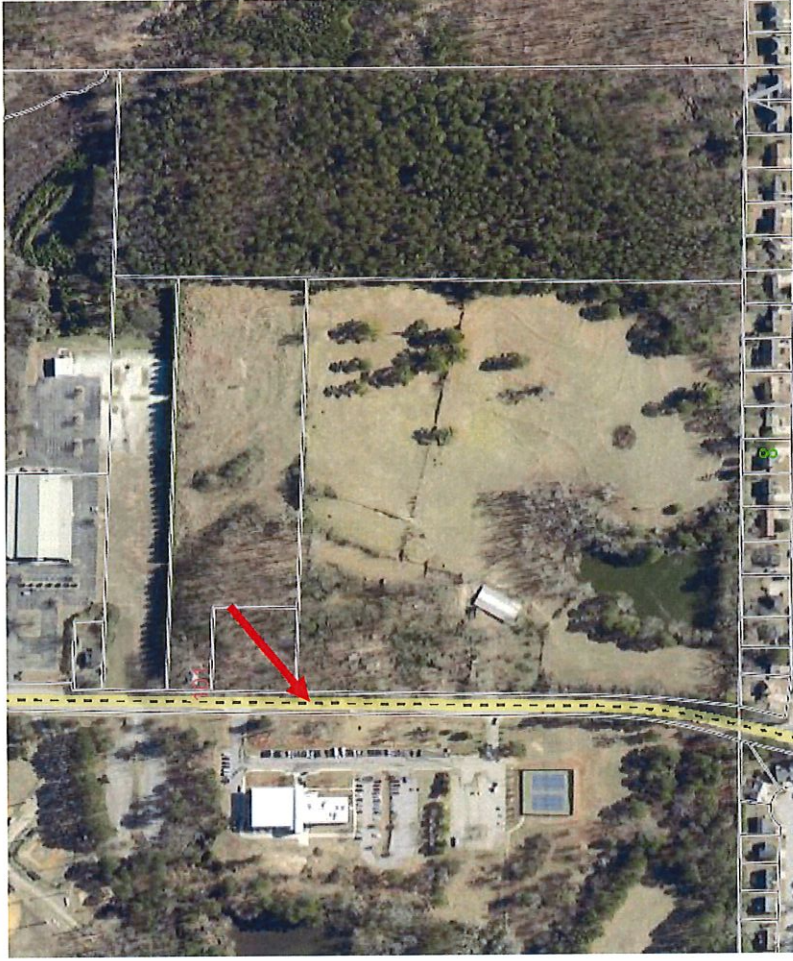
- There are currently no historic building, sites, districts or archaeological resources on the subject property.
- The zoning proposal will not adversely impact the environment or surrounding natural resources. The applicant intends to preserve the fresh water pond on the property and make it part of their amenity package. The applicant will have to provide for the management of stormwater according to the City's regulations and state regulations

Zoning Review- Conditions giving either approval or disapproval / Affect existing use or usability of nearby properties



- MR-1 zoned property to the east and the existing RSM zoning classification to the south and north east of the property, its reason to believe the proposed use would be in line with the area, which would give it supporting grounds for approval.
- The proposed residential use is not anticipated to have a negative impact on the existing use or usability of adjacent or nearby properties. Staff believe the proposed use of a single-family home attached townhome will be in line with the existing character of the area.

Zoning Review- Excessive use of streets, transpiration, utilities and schools.



- According to the trip generation, the proposed development is projected to generate approximately 1,764 daily trips (882 in; 882 out), 110 total AM peak hours (25 in; 85 out), and 129 total PM peak hour trips (81 in; 48 out). The staff has requested a traffic impact analysis for further evaluation of the project.
- 94 additional students; Twenty-five (25) at Redan ES, eleven (11) at Lithonia MS, sixteen (16) at Lithonia HS and forty (40) at other DCSD schools. All three neighborhood schools have the capacity for additional students.
- Will not cause an excessive or burdensome on utilities as Dekalb County believes the property has the sewer capacity for a residential development

Staff Analysis

Staff has requested additional studies and will need additional time to review and evaluate therefore, the Department of Community Development recommends **Deferral of RZ-19-007**



Staff Recommendation

Staff recommends **Deferral of Land Use Petition RZ-19-007**. However, should the Planning Commission choose to approve the request in whole staff recommends approval shall be subject to the following conditions:

1. The site shall be developed in general conformance with the site plan received by the City on June 4th, 2019.
2. The development shall be limited to the 6.0 units per acre.
3. Exterior elevations shall be similar to the elevations received by the City on June 4th, 2019. Final elevations shall be subject to review and approval of the Community Development Director.
4. Owner/Developer shall install a five foot (5') wide sidewalk along the frontage of Phillips Road.
5. Owner/Developer shall obtain all permits required by the City of Stonecrest in accordance with the development of the subject property.
6. Water and sewer approval is required by the DeKalb County Department of Watershed Management

Planning Commission

Recommendation

At August 6, 2019, public hearing the Planning Commission recommend Deferral of Land Use Petition RZ-19-007 for a full cycle. The recommended deferral is to allow more time for the applicant to work with staff and the community to address concerns. The main concern for the community is the number of homes, parking, and traffic generated from the development. Staff concerns are the amount of traffic generated and the density of the development. Planning Commission also voices their concern regarding parking and road width of the streets.



August 6th 2019

Planning Commission Public Hearing



COUNCIL MEETING AGENDA ITEM

SUBJECT: Affirmed Policy Consulting LLC Contract

☐ ORDINANCE	☐ POLICY	☐ STATUS REPORT
☐ DISCUSSION ONLY	☐ RESOLUTION	☒ OTHER

Council Meeting: 08-26-2019

SUBMITTED BY: Mayor Jason Lary

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Approval by Mayor and Council

GENERAL SERVICE AGREEMENT

THIS GENERAL SERVICE AGREEMENT (the "Agreement") dated this _____ day of _____, _____

BETWEEN:

City of Stonecrest, Georgia of 3120 Stonecrest Boulevard, Stonecrest, Georgia, 30038
(the "Client")

- AND -

Affirmed Policy Consulting, LLC of P.O. Box 377, Redan, Georgia, 30074
(the "Contractor").

BACKGROUND:

- A. The Client is of the opinion that the Contractor has the necessary qualifications, experience and abilities to provide services to the Client.
- B. The Contractor is agreeable to providing such services to the Client on the terms and conditions set out in this Agreement.

IN CONSIDERATION OF the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Client and the Contractor (individually the "Party" and collectively the "Parties" to this Agreement) agree as follows:

Services Provided

1. The Client hereby agrees to engage the Contractor to provide the Client with the following services (the "Services"):
 - Internal Financial Auditing;
 - Fiscal Impact Analysis and Reporting;
 - Charter and Policy Compliance Auditing;
 - Quarterly and Annual Compliance Reporting; and
 - Policy and Procedure Consultation

2. The Services will also include any other tasks which the Parties may agree on. The Contractor hereby agrees to provide such Services to the Client.

Term of Agreement.

3. The term of this Agreement (the "Term") will begin on July 1, 2019 and will remain in full force and effect until December 31, 2019, subject to earlier termination as provided in this Agreement. The Term of this Agreement may be extended with the written consent of the Parties.
4. In the event that either Party wishes to terminate this Agreement, with or without cause, prior to December 31, 2019, the terminating Party will be required to provide 30 days' written notice to the other Party.

Performance

5. The Parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

Currency

6. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in USD (US Dollars).

Compensation

7. The Contractor will charge the Client for Services the amount of \$100.00 per hour for Services performed; provided, that, the Contractor's hours during any calendar month in excess of 40 hours requires the written approval of the City Manager of the Client to be compensable.
8. On the effective date of this Agreement, the Contractor shall continue to provide services without an additional retainer.
9. On the termination or non-renewal by the Client of this Agreement, the Contractor shall prepare a final invoice. If the amount of the compensable charges exceed the beginning retainer balance, then the Client shall pay the Contractor such excess amount within 15 days of its receipt of the invoice. If however, the final invoice reflects that the compensable charges are less than the beginning retainer balance, the amount of the remaining retainer shall be reimbursed to the Client by the Contractor with 15 days of its delivery of the invoice to the Client.

Reimbursement of Expenses

10. The Contractor will be reimbursed from time to time for reasonable and necessary expenses incurred by the Contractor in connection with providing the Services.
11. All expenses must be pre-approved by the Client to be reimbursed.

Confidentiality

12. Confidential information (the "Confidential Information") refers to any data or information relating to the business of the Client which would reasonably be considered to be proprietary to the Client including, but not limited to, accounting records, business processes, and client records and that is not generally known in the industry of the Client and where the release of that Confidential Information could reasonably be expected to cause harm to the Client.
13. The Contractor agrees that it will not disclose, divulge, reveal, report or use, for any purpose, any confidential information which the Contractor has obtained, except as authorized by the Client or as required by law. The obligations of confidentiality will apply during the term of this Agreement and will survive indefinitely upon termination of this Agreement.
14. All written and oral information and material disclosed or provided by the Client to the Contractor under this Agreement is Confidential Information regardless of whether it was provided before or after the date of this Agreement or how it was provided to the Contractor.

Ownership of Intellectual Property

15. All intellectual property and related material, including any trade secrets, moral rights, goodwill, relevant registrations or applications for registration, and rights in any patent, copyright, trademark, trade dress, industrial design and trade name (the "Intellectual Property") that is developed or produced under this Agreement, is a "work made for hire" and will be the sole property of the Client. The use of the Intellectual Property by the Client will not be restricted in any manner.
16. The Contractor may not use the Intellectual Property for any purpose other than that contracted for in this Agreement except with the written consent of the Client. The Contractor will be responsible for any and all damages resulting from the unauthorized use of the Intellectual Property.

Return of Property

17. Upon the expiry or termination of this Agreement, the Contractor will return to the Client any property, documentation, records, or Confidential Information which is the property of the Client.

Capacity/Independent Contractor

18. In providing the Services under this Agreement it is expressly agreed that the Contractor is acting as an independent contractor and not as an employee. The Contractor and the Client acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service. The Client is not required to pay, or make any contributions to, any social security, local, state or federal tax, unemployment compensation, workers' compensation, insurance premium, profit-sharing, pension or any other employee benefit for the Contractor during the Term. The Contractor is responsible for paying, and complying with reporting requirements for, all local, state and federal taxes related to payments made to the Contractor under this Agreement.

Notice

19. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties at the following addresses:
 - a. City of Stonecrest, Georgia
3120 Stonecrest Boulevard, Stonecrest, Georgia, 30038
 - b. Affirmed Policy Consulting, LLC
P.O. Box 377, Redan, Georgia, 30074
and
5429 Savoy Chase Crossing, Stonecrest, GA 30038

or to such other address as either Party may from time to time notify the other, and will be deemed to be properly delivered (a) immediately upon being served personally, (b) two days after being deposited with the postal service if served by registered mail, or (c) the following day after being deposited with an overnight courier.

Indemnification

20. The Contractor agrees to indemnify and hold harmless the Client, and its respective elected officials, officers, agents, employees, and permitted successors and assigns against any and all claims, losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever, which result from or arise out of any act or omission of the Contractor, its respective member managers, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns that occurs in connection with this Agreement. This indemnification will survive the termination of this Agreement.

Modification of Agreement

21. Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorized representative of each Party.

Time of the Essence

22. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

Assignment

23. The Contractor will not voluntarily, or by operation of law, assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Client.

Entire Agreement

24. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

Enurement

25. This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and permitted successors and assigns.

Titles/Headings

26. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

Gender

27. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

Governing Law

28. This Agreement will be governed by and construed in accordance with the laws of the State of Georgia.

Severability

29. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

Waiver

30. The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.

IN WITNESS WHEREOF the Parties have duly affixed their signatures under hand and seal on this _____ day of _____, _____.

ATTEST: City Clerk, Stonecrest, Georgia

Mayor, City of Stonecrest, Georgia

Affirmed Policy Consulting, LLC

WITNESS: _____

Per: _____ (Seal)

APPROVED AS TO FORM:

City Attorney