

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

October 15, 2018

7:00pm.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** Brenda James, Interim City Clerk
- III. INVOCATION:**
- IV. PLEDGE OF ALLEGIANCE:**
- V. ADOPTION OF THE CITY COUNCIL AGENDA:**
- VI. MINUTES:** Approval of Minutes of the City Council Meeting of October 3, 2018
- VII. PUBLIC HEARING:**
 - 1. AX 18-0001 6024 Covington Hwy
 - 2. RZ 18-003 6554 & 6560 Chupp Road / 7247 & 7257 Covington Hwy/ 2601 & 2616 Macedonia
- VIII. PUBLIC COMMENTS:**
- IX. AGENDA ITEMS:**
 - 3. Authorize Execution of Intergovernmental Agreement with DeKalb County for Elections
 - 4. Authorize Correction of Term End Date of Intergovernmental Agreement for Fire Rescue Services between DeKalb County and City of Stonecrest

5. An Ordinance Adopting Chapter 19 (Parks and Recreation) - Second Read
6. An Ordinance Adopting Chapter 11 (Emergency Management Services) Second Read
7. An Ordinance to amend the Budget for the Fiscal Year 2018 – Second Read
8. An Ordinance Designating Chapter 16- Miscellaneous Provisions and Offenses - Second Read
9. Resolution Authorizing the Establishment of the SPLOST Citizens Oversight Advisory Committee
10. An Ordinance for the Creation of the Stonecrest Youth Council- First Read
11. An Ordinance to Provide for the Creation of the Stonecrest Youth Council Advisory Committee – First Read
12. An Ordinance Creating the Historic and Cultural Landmarks Commission- First Read
13. An Ordinance to Amend the Charter, Section 1.03(b)(37)(A) to Amend the Millage Rate Cap – First Read
14. An Ordinance to Amend Section 2.13(e) of the Charter Eliminating the Restrictions of Employment - First Read
15. An Ordinance to Amend the Charter, Section 3.11 to Change the name of the City Accountant to City Finance Director - First Read
16. An Ordinance to Amend the Charter, Sections 4.02, 4.03 and 4.06 of Article IV Amending the Titles of any Municipal Judge. – First Read

X. CITY MANAGER COMMENTS:

XI. CITY ATTORNEY COMMENTS:

XII. MAYOR AND COUNCIL COMMENTS:

XIII. ADJOURNMENT:

XIV. EXECUTIVE SESSION:

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

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

October 3, 2018

9:00am.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

I. CALL TO ORDER: Mayor Jason Lary

II. ROLL CALL: All Members Present

III. INVOCATION: Council Member Rob Turner

IV. PLEDGE OF ALLEGIANCE:

V. ADOPTION OF THE CITY COUNCIL AGENDA:

Council Member Adoma made a motion to adopt the agenda with Council Member Rob Turner providing the second. **The motion carried unanimously.**

VI. MINUTES: Approval of Minutes of the City Council Meeting of September 17, 2018

Council Member George Turner noted some incorrect spellings and the Clerk said she had corrected them. Council Member Rob Turner made a motion to adopt the minutes with Council Member Adoma providing the second. **The motion carried unanimously.**

VII. PRESENTATIONS: None

VIII. PUBLIC COMMENTS:

Dave Marcus spoke on the SPLOST negotiations with Grice Consulting.

IX. AGENDA ITEMS:

1. Ordinance Amending Chapter 15 – Business License Article XIX Mobile Food Vendors

Attorney Kurrie gave an overview and said he had many changes that need to be made.

Council Member Adoma made a motion to defer this item for additional information. Council George Turner provided the second. After much discussion, Council Members Adoma, George Turner and Cobble voted yes to defer and Council Members Rob Turner, Clanton and Mayor Lary voted no. **The motion failed with a 3/3 vote.**

Council Member Clanton made a motion to adopt the ordinance with the following changes; On line 147 (b) delete number 1&2, on line 199 correct the spelling of car to cart and on lines 316 & 317 changes the time from 9pm to 9am. Council Member Rob Turner provided the second. A vote was taken on the motion and Council Members Rob Turner, George Turner, Clanton, Cobble and Mayor Lary voted in favor. Council Member Adoma voted against. **The motion carried.**

2. Ordinance Designating Chapter 16 – Miscellaneous Provisions and Offenses

Attorney Kurie gave an overview and said Section 16-24 should be deleted. Attorney Felgin spoke on the item and what was needed for the courts. After much discussion Council Member George Turner made a motion to defer this item with Council Member Rob Turner providing the second. **The motion carried unanimously.**

3. Ordinance Adopting Chapter 11 Emergency Management and Services

Attorney Lenny Felgin gave an overview of the ordinance adopting Chapter 11 Emergency Management Services. **This was the first read only.**

4. Ordinance Adopting Chapter 9 Parks and Recreation

Attorney Lenny Felgin gave an overview of the ordinance adopting Chapter 9 Parks and Recreation. **This was the first read only.**

5. Intergovernmental Agreement for Police Services between DeKalb County and the City of Stonecrest

Attorney Cosgray and City Manager Michael Harris gave an overview of the terms and other information regarding the Intergovernmental Agreement for Police Services between DeKalb County and the City of Stonecrest.

After much discussion Mayor Lary made a motion to approve the Intergovernmental Agreement with DeKalb County for Police Services. Council Member Clanton provided the second. **The motion carried unanimously.**

6. Intergovernmental Agreement for Fire Rescue Services between DeKalb County and the City of Stonecrest

Attorney Cosgray and City Manager Michael Harris gave an overview of the Intergovernmental Agreement between DeKalb County and City of Stonecrest for Fire Services.

After much discussion, Council Member Adoma made a motion to approve the Intergovernmental Agreement with DeKalb County for Fire Services. Council Member Clanton provided the second. **The motion carried.**

7. Intergovernmental Agreement for 911 Dispatch Services between DeKalb County and the City of Stonecrest

Attorney Cosgray gave an overview of the Intergovernmental Agreement for 911 Dispatch Services between DeKalb County and the City of Stonecrest.

Council Member Adoma made a motion to approve the Intergovernmental Agreement with DeKalb County for the 911 Dispatch Services with Council Member Rob Turner providing the second. **The motion carried unanimously,**

8. Budget Amendment

Michael Harris, City Manager gave an overview of the Budget Amendment.

Council Member Clanton made a motion to approve with Council Member George Turner providing the second. **The motion carried unanimously, however this should have only been the first read.**

X. CITY MANAGER COMMENTS: None

XI. CITY ATTORNEY COMMENTS: None

XII. MAYOR AND COUNCIL COMMENTS:

Council Member Adoma said on October 27th they will be walking Arabia Mountain to raise money for children who are aging out of foster care. There will also be a citywide clean up on the same day.

Council Member George Turner said they will also be walking Arabia Mountain on October 27th, but for Hypertension Awareness.

Council Member Clanton announced his Community Leadership Meeting on October 13th at Fairview Baptist Church at 10:00a.m.

Council Member Rob Turner announced his monthly Breakfast on Saturday, October 13th at the House of Hope from 9:00a.m. to 11:00 a.m.

Ms. Charlotte Cain gave an overview of the Stonecrest Fest to be held on October 6, 2018.

Mayor Lary thanked everyone for their well wishes.

XIII. ADJOURNMENT:

Council Member Clanton made a motion to adjourn the meeting with Council Member Adoma providing the second. **The motion carried unanimously.**

XIV. EXECUTIVE SESSION:

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



CITY COUNCIL AGENDA ITEM

SUBJECT: AX 18-0001 6024 Covington Hwy

() ORDINANCE () POLICY () STATUS REPORT
() DISCUSSION ONLY () RESOLUTION (X) OTHER

Date Submitted: 10/10/18 **Work Session:** **Council Meeting:** 10/15/2018

SUBMITTED BY: Nicole C.E. Dozier, Community Development Department Director

PURPOSE: 1.) The applicant is requesting to annex 11.63 acres of land into the City. 2) The applicant is requesting to rezoning the property in its entirety (24.214 acres) to MR-R2 (Medium-density Residential).

HISTORY: This item was deferred at the September 17, 2018 meeting to allow for additional negotiations between the Applicant and the Hidden Hills association. For clarity, this property is in the I-20 Overlay in Tier 2. Any residential property abutting the I-20 Overlay is required to have a 30 ft. buffer (see attached Zoning Map for Overlay verification).

RECOMMENDED ACTION: Planning Commission recommended approval with conditions at their September 11, 2018 meeting. With the addition of condition #16 The subject property must adhere to the I-20 Overlay District (tier 2) standards.

OPTIONS: Defer back to the Planning Commission, approve; Deny; or make Alternative conditions.

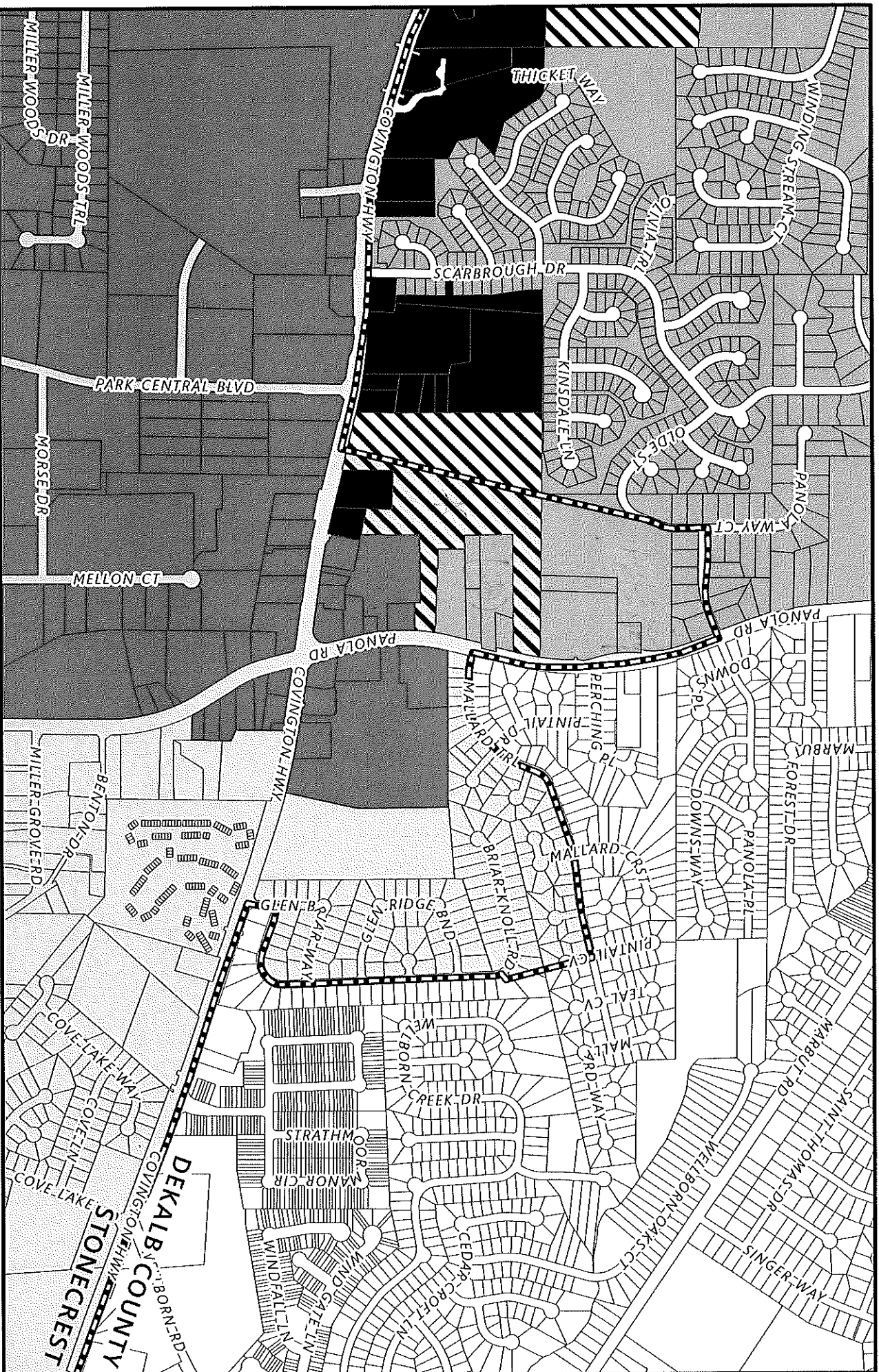
ATTACHMENTS:

- #1 Overlay District Map for the site (prior to and since incorporation)
- #2 9/11/18 Planning Commission Staff report
- #3 Additional proposed conditions (from applicant)

AX 18-0001

Attachment #1

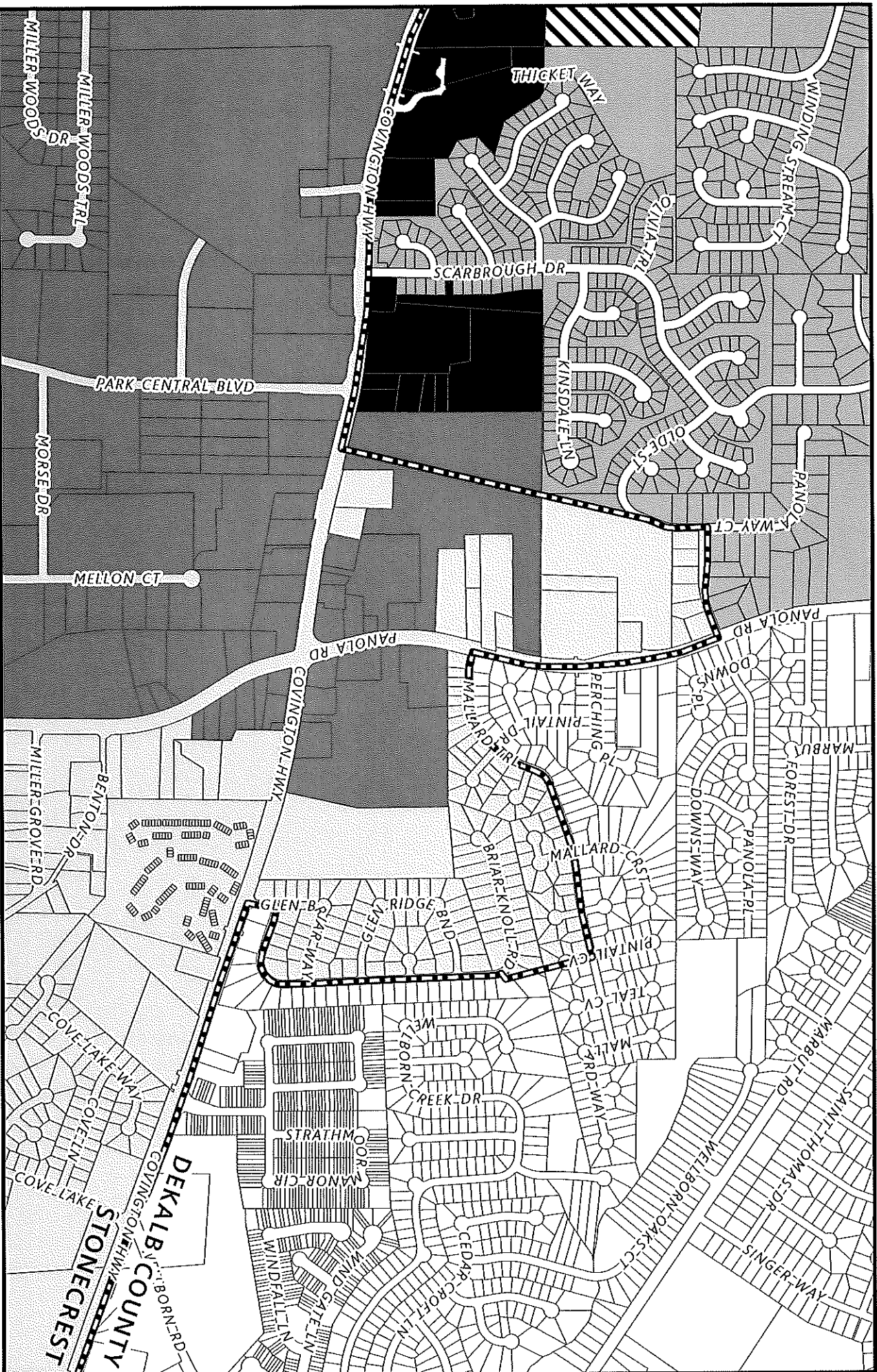
**Overlay District Map for The Site
(Prior To And Since Incorporation)**



-  Hidden Hills Overlay | Residential
-  Hidden Hills Overlay | Tier 1
-  I-20 Overlay | Tier 2
-  Mixed or Partial Tier
-  Parcels
-  City Limits

OVERLAY DISTRICTS

PRIOR TO STONECREST INCORPORATION



- Hidden Hills Overlay | Residential
- Hidden Hills Overlay | Tier 1
- I-20 Overlay | Tier 2
- Mixed or Partial Tier
- Parcels
- City Limits

OVERLAY DISTRICTS

SINCE STONECREST INCORPORATION

AX 18-0001

Attachment #2

09/11/2018

Planning Commission Staff Report



PLANNING COMMISSION STAFF REPORT

MEETING DATE: September 11, 2018

GENERAL INFORMATION

Petition Number: AX 18-0001

Applicant: Halpern Enterprises

Owner: Halpern Enterprises

Project Location: 6024 Covington Hwy Stonecrest GA

District: 2

Acreage: 11.63 acres

Existing Zoning: C-1 Local Commercial /MU-5 Mixed-Use Very High Density

Request: (1) The applicant is requesting to annex 11.63 acres of land into the City of Stonecrest.

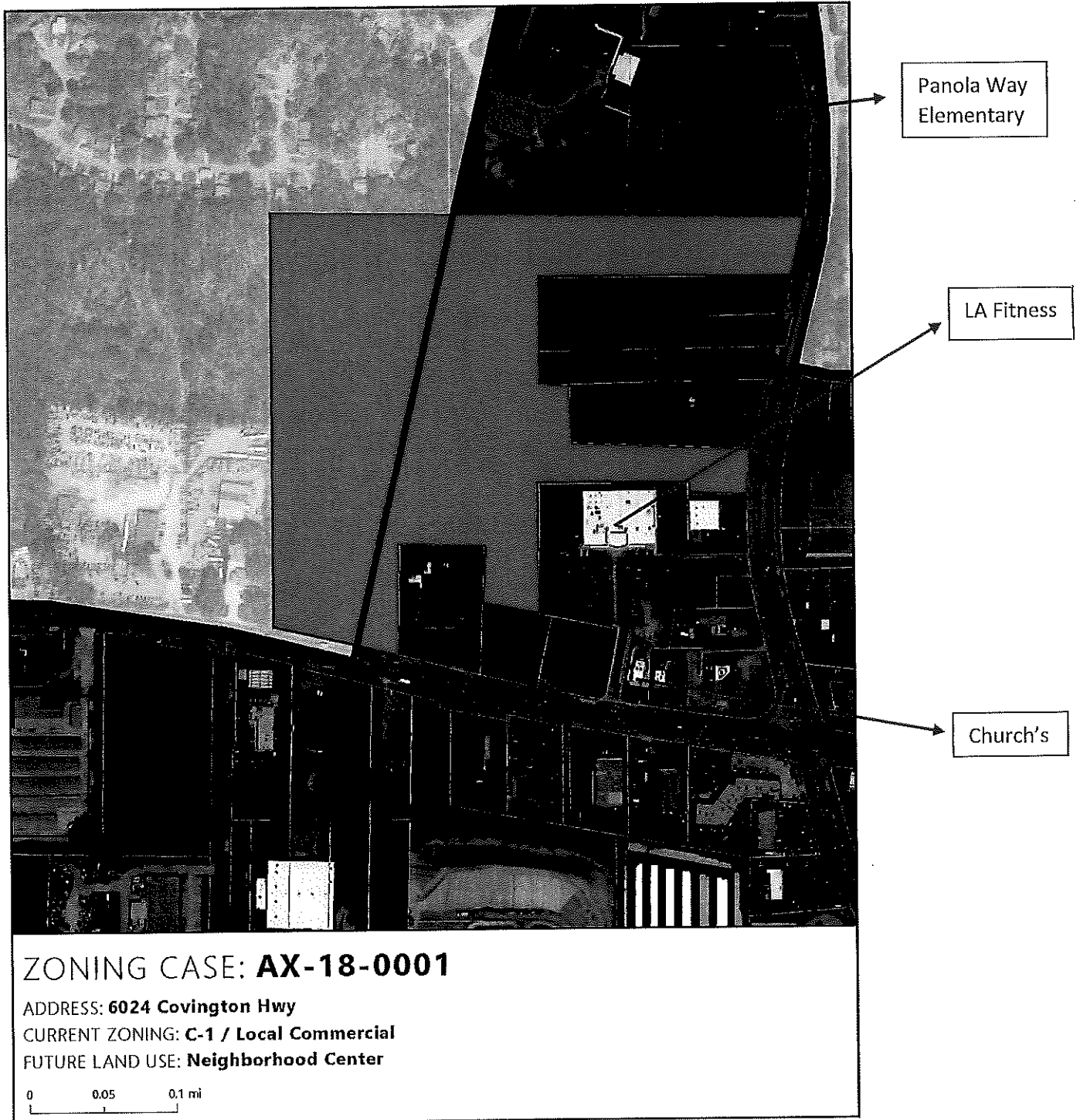
(2) In addition, the applicant is requesting to rezone the property in its entirety (24.214 acres) to MR-2 (Med.-Density Residential)

Staff Recommendations: Approval with conditions



PLANNING COMMISSION STAFF REPORT

SITE MAP



ZONING CASE: AX-18-0001

ADDRESS: 6024 Covington Hwy

CURRENT ZONING: C-1 / Local Commercial

FUTURE LAND USE: Neighborhood Center

0 0.05 0.1 mi



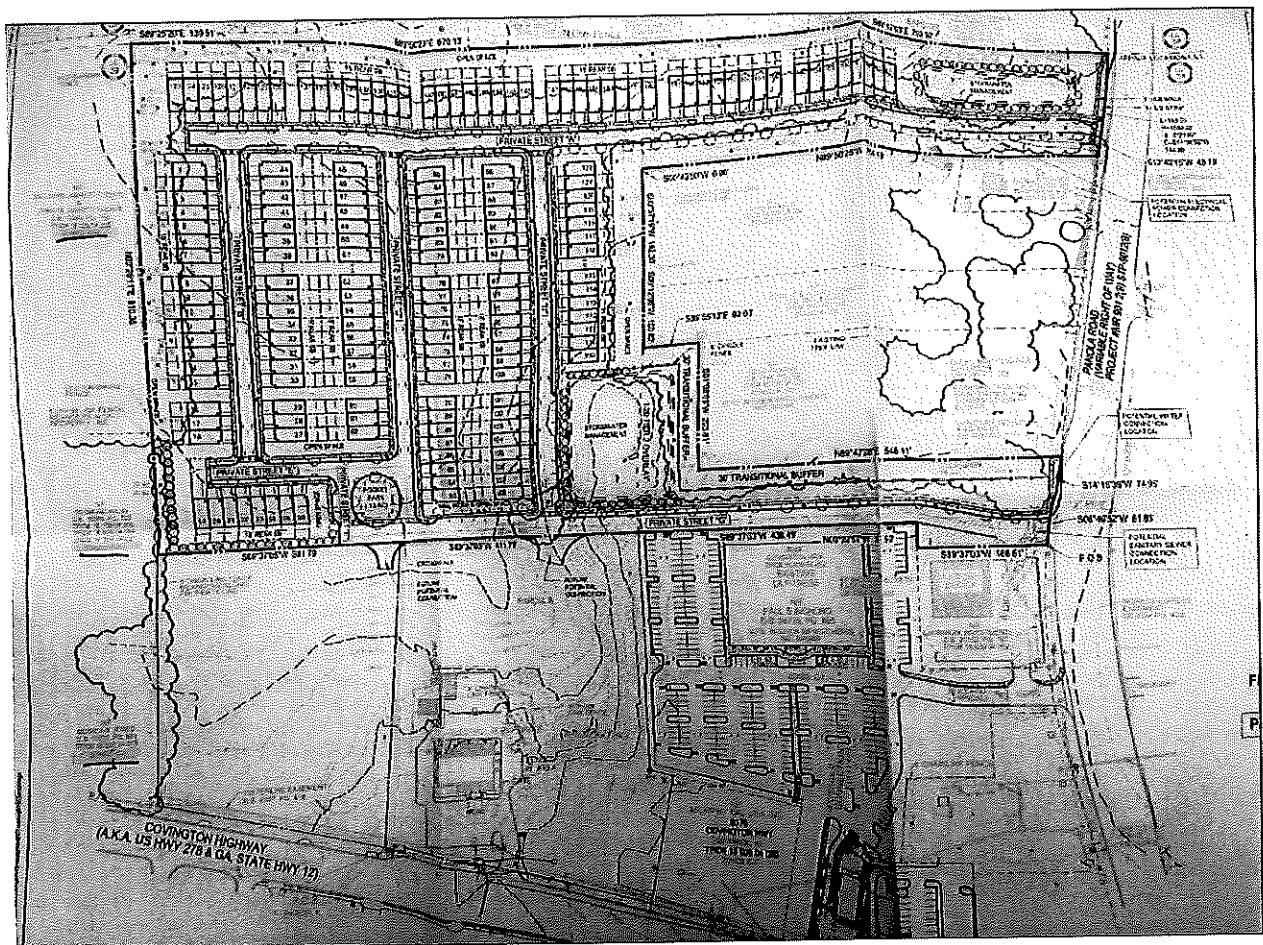
PLANNING COMMISSION STAFF REPORT

PROJECT OVERVIEW

6024 Covington Highway (parcels 160390434) is currently split by the City of Stonecrest boundary. The overall parcel is approx. 24 acres. The west portion of the site (approx. 12 acres) is in unincorporated Dekalb County and the eastern portion of the property is currently located in the City of Stonecrest. Applicant would like the entire site/parcel (24.214 acres) to be located within the City (see attached proposed revised zoning map boundary Attachment #3) as well as rezoned MR-2. The site is currently vacant - undeveloped land.

The site is currently split zoned MU-5 and zoned C-1 with conditions. This site is subject to the conditions of the following cases, CZ 17-21274, CZ 12-17693, CZ 12-17692, CZ 06-1745, CZ-98055, and CZ-98054. This site was originally part of a large mixed-use development project involving Halpern Enterprises, Dekalb Hospital Authority and Sunstate International.

The applicant has proposed to build the residential portion of this mixed-use development, which is a 160 unit townhome development. The commercial portion of the site is anticipated as future development.





PLANNING COMMISSION STAFF REPORT

STANDARDS OF REVIEW

- **Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.**
The zoning proposal is in conformity with the policy and intent of the comprehensive plan. Townhomes are a primary land use in the Future Land Use for this area. This area promotes reduced auto usage and concentration of retail activities in a walkable area.
- **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.**
The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties. There are connections to the neighboring parcels. The objective would be to promote walkability between the different uses.
- **Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.**
The subject property has a reasonable economic use as currently zoned. The site is zoned for mixed use with provides the greatest possibility for mixed use development that the city highly encourages.
- **Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties in an adjoining governmental jurisdiction.**
Part of this property is in Dekalb County. As per this approval the entire site will be moved into the City of Stonecrest limits. The proposed use will not adversely affect the existing use or usability of adjacent or nearby property. The adjacent Dekalb property is zoned residential on the northern portion and Commercial to the southern part.
- **Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.**
There are six (6) prior zoning cases with several Dekalb County conditions that are applicable to this property. The conditions have been reviewed and modified for this current proposal.
- **Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.**
This use will not adversely affect any historic buildings, sites, districts, or archaeological resources.
- **Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**



PLANNING COMMISSION STAFF REPORT

The zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. (see availability letters in application, Attachment #2)

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

This use will not adversely impact the environment or surrounding natural resources in the city of Stonecrest.

ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use
North	RSM/ R100 Small Lot Residential Mix/Residential Med	Single-Family Dwellings/ Elementary School
South	C-1 (Local Commercial)	Commercial Shopping Center
East	R-100 (Residential Med.)	Single Family Dwelling
West	RSM / C-2 / O-I (Small Lot Res./General Commercial/Office Institutional)	Single-Family Dwellings

This site is located in the I-20 Overlay District Tier # 2. The purpose of the Tier is to allow medium-intensity residential units in a mixed-use development project. The maximum height shall not exceed eight (8) stories and allows for up to forty (40) dwellings to the acre. All buildings must adhere to the setback requirements of the I-20 Overlay Section 3.33.9.

The surrounding properties are a combination of uses that are currently permitted on this split zoned site. The existing zoning on the site is C-1 and MU-5. MU-5 allows for uses permitted with in all zoning districts with density, design, and dimensional requirements.

Dekalb County has submitted their comments (see Attachment #1) and the applicant has obtained their utility approval letters (see Attachment #2).

The site is currently undeveloped with access to Panola Rd and Covington Hwy.



PLANNING COMMISSION STAFF REPORT

RECOMMENDATION

Staff recommends approval of AX 18-0001 to annex 11.63 acres into the city and rezone the property to MR-2 (Med-Density Residential) with the following conditions:

1. An opaque 8' fence shall be installed along the interior of the eastern boundary of the subject property adjacent to residential zoning.
2. The front and sides of the buildings shall predominantly consist of brick. The townhomes shall adhere to Section 5.7.6 - Single Family Attached buildings.
3. The following uses shall not be permitted on this property: self-storage or mini warehouses, liquor and or package stores, pawn shops, pool hall and sports bar, adult entertainment or bookstores etc., check cashing, nightclubs skating rink, indoor and outdoor recreation.
4. For the commercial portion of the site to the southern part of the property:
 - b. Orientation of the building entrances shall be along Covington Highway and are subject to GDOT approval.
 - c. Provide pedestrian connectivity to the residential development.
 - d. Screen parking area along Covington Hwy with a continuous hedge not to exceed three (3) feet in height.
 - e. Provide outside trash receptacles for patrons.
 - f. Screen roof-top equipment.
 - g. All lighting used in this portion shall be high pressure sodium design and have a controlled foot print to minimize glare to adjacent residential properties.
5. Monument signage shall be used for this project and shall contain brick.
6. All refuse areas shall be located to the rear of the site and screened with an enclosure of similar building material to match the primary structures.
7. The development shall be limited to one (1) full access driveway and one (1) right in / right out only driveway on Panola Road. The location of said entrances are dependent on adequate spacing and sight distance, and subject to the approval of the Stonecrest City Engineer.
8. Owner/Developer shall construct a deceleration lane at the site entrances on Panola Road, subject to the approval of the Stonecrest City Engineer.
9. Owner/Developer shall install five foot (5') wide ADA compliant sidewalks along the entire frontage of Panola Road.



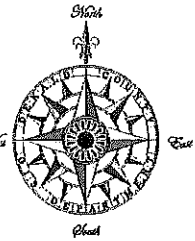
PLANNING COMMISSION STAFF REPORT

10. Owner/Developer shall install five foot (5') wide ADA compliant sidewalks along both sides of all internal streets.
11. Proposed private streets shall be constructed to public standards.
12. A minimum of twenty-foot (20') setback is required from the back of sidewalk to the face of structure in order to accommodate a parked vehicle in the driveway.
13. Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition.
14. Owner/Developer shall comply with the City of Stonecrest Tree Protection Ordinance concerning tree protection and replacement. A minimum on-site tree density of fifteen (15) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree replacement units as required in the ordinance.
15. Water and sewer approval is required by the DeKalb County Department of Watershed Management.



PLANNING COMMISSION STAFF REPORT

ATTACHMENT #1



RECEIVED SEP 21 2018

CERTIFIED MAIL

September 18, 2018

Nicole C.E. Dozier, Community Development Director
City of Stonecrest
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038

Dear Ms. Dozier:

This letter is a revision of my letter dated June 15, 2018. We are in receipt of your June 11, 2018 letter regarding the proposed annexation of property located at 6024 Covington Highway (tax parcel 16 039 04 034). The GIS Department will update the county's maps and records once we receive a copy of the approval from the City of Stonecrest.

We have reviewed the address listed in your correspondence to be annexed and determined that no county facilities are located at this address.

With regard to easements and drainage, DeKalb County hereby reserves for itself, its successors and assigns any and all existing water and sewer easements upon, over, across and under the above mentioned annexed property and an easement upon, over, cross and under the above mentioned annexed property for the collection, direction, concentration, discharge, ponding or retention of rain waters, surface waters or other waters from roads, street, alleys, parks, lots, ditches, culverts, drains, lake, rivers, streams, pond and properties of DeKalb County, Georgia or properties devoted to a public use.

The GIS Department is responsible for processing annexations. GIS will receive the notification of annexation in a more expeditious manner if you would please copy this office on annexation notices. If you have any questions, you may contact me at 404.371.3619 or via email at scgrear@dekalbcountyga.gov.

Sincerely,

Stacy Gear
Director

cc: Michael Thurmond, CEO
Zachary Williams, COO
Andrew Baker, Director of Planning & Sustainability
Mereda Davis Johnson, Commission District 5
Gregory Adams, Super District 7 Commissioner



PLANNING COMMISSION STAFF REPORT

ATTACHMENT #2



AX 18-0001

Application for Annexation

One (5) original paper copies and a digital copy the completed application and all other required items must be submitted to the of the Community Development Department. All information to be presented to the Planning Commission and City Council should be assembled. This application will not be processed any items are missing or if the appropriate fee does not accompany it.

- ☐ Completed application forms signed by 100% of the land owners and/or electors (in the case of existing residential property owners) residing in the area to be annexed and by owners of not less than 100% of the total land area, by acreage. The application contains a "Contiguity Statement" which must be signed by an engineer or surveyor
- ☐ Current land survey by a registered surveyor that includes a legal description and lists acreage to be annexed.
- ☐ Utility Availability Letters – A letter by the service providers must be obtained, Watershed (water and sewer availability) and Dekalb County Board of Education (discussing impact the development will have on schools in the area).
- ☐ Attach names and addresses of owners of all property within 250 feet of the subject property. Once an application has been accepted for presentation the applicant must also demonstrate that all property owners within 250 feet of the subject property have been notified of the Public Hearings.
- ☐ Application Fee of \$350.00 per parcel* – You will be billed any additional amount spent on advertising. It is necessary for this fee to be paid prior to any meeting dates.

* Fee maybe reduced (\$275.00) if property is split by the city boundaries.

Petitioner will be notified by Mail/Email of the scheduled Public Hearing for which his/her application will be considered.



Revised 6/21/2018

GENERAL INFORMATION

Date: 6/5/18

Applicant/ Owner Name Halpern Enterprises, c/o Battle Law, P.C. Email mlb@battlelawpc.com

Phone # wk (404) 601-7616 cell# _____

Address One West Court Square, Suite 750, Decatur, GA 30030

Location and address if available of the subject property
6024 Covington Highway, portion of Parcel ID: 16 039 04 034

The size/acreage of the subject property 11.63 acres

The proposed land use category of the subject property upon annexation

NC, Neighborhood Center

Present Dekalb County Zoning Classification(s) MU-5 w/ conditions:

CZ-17-21274, CZ-12-17693, CZ-12-17692, CZ-06-1745, CZ-98055, CZ-98054

Desired City of Stonecrest Zoning Classification(s) MR-2 ~~XXXX~~1

List the number of houses, if any on property being submitted None

The territory to be annexed is unincorporated and contiguous (as described in O.C.G.A. § 36-36-20) to the existing corporate limits of Stonecrest, Georgia, and the description of such territory is as follows:

[Insert complete description of land to be annexed.]

Applicant Signature: _____

Date 6/20/18



CONTIGUITY STATEMENT

Contiguous areas means at the time the annexation procedures are initiated, any area that meets the following conditions:

(1) At least one-eighth of the aggregate external boundary or 50 feet of the area to be annexed, whichever is less, either abuts directly on the municipal boundary or would directly abut on the municipal boundary or would directly about the municipal boundary if it were not otherwise separated, in whole or in part, from the municipal boundary by lands owned by the municipal corporation or some other political subdivision, by lands owned by this state or by the definite width of (A) any street or street right-of-way, (B) any creek or river, or (C) any right-of-way of a railroad or other public service corporation which divides the municipal boundary and any area proposed to be annexed;

(2) The entire parcel or parcels of real property owned by the person seeking annexation is being annexed; provided, however, that lots shall not be subdivided in an effort to evade the requirements of this paragraph; and

(3) The private property annexed, excluding any right of way of a railroad or other public service corporation, complies with the annexing municipality's minimum size requirements, if any, to construct a building or structure occupiable by persons or property under the policies or regulations of the municipal development, zoning, or subdivision ordinances.

I, William C. Wohlford, Jr., a registered Surveyor in the State of Georgia, hereby certify that the parcel requested to be annexed into the City of Stonecrest lying in land lot(s) 39 of the 16th district, Dekalb County, has a contiguous boundary of 1,307 feet with the existing City limits of the City of Stonecrest, which is at least one-eighth aggregate of the total property to be annexed.

This the 5th day of June, 2018

William C. Wohlford, Jr.
Signature

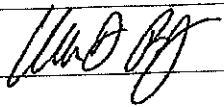
2577

Georgia Registered Surveyor #



We, the undersigned, all of the owners of all real property of the territory described herein respectfully request that the City Council annex this territory to the City of Stonecrest, Georgia, and extend the city boundaries to include the same.

LAND OWNERS

Name (Print)	Address (Print)	Signature	Date (Print)
1 Halpern Enterprises, Inc.	5200 ROSWELL RD NE A ATLANTA GA 30342		
2			
3			
4			
5			
6			
7			
8			
9			
10			



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>5/24/18</u>	
	Address: <u>5200 ROSWELL RD NE A</u>	City, State: <u>ATLANTA GA</u>	Zip: <u>30342</u>
	Phone: <u>770-451-0318</u>		
	Sworn to and subscribed before me this <u>24th</u> day of <u>May</u> , 20 <u>18</u>		
Property Owner (If Applicable)	Notary Public: <u>Elaine Mahon</u>		
	Signature: <u>[Signature]</u>	Date: <u>5/24/18</u>	
	Address: <u>5200 Roswell Rd</u>	City, State: <u>Atlanta, GA</u>	Zip: <u>30342</u>
	Phone: <u>770-451-0318</u>		
Property Owner (If Applicable)	Sworn to and subscribed before me this <u>24</u> day of <u>May</u> , 20 <u>18</u>		
	Notary Public:		
	Signature:		Date:
	Address:		City, State:
Property Owner (If Applicable)	Phone:		Zip:
	Sworn to and subscribed before me this _____ day of _____, 20____		
	Notary Public:		



Campaign Disclosure Statement

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

☐ Yes ☒ No

Applicant / Owner	Signature: <i>[Handwritten Signature]</i>
	Address: 5200 Roswell Road, Atlanta GA 30342
	Date: May 24, 2018

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

Date	Government Official	Official Position	Description	Amount

TerraMark
1005 First Highway
Brentwood, Georgia 30686
Phone (404) 421-1257
Fax (404) 421-1257
E-Mail: info@terra-mark.com
© C.A. TerraMark

DATE	DESCRIPTION	AMOUNT	CHECK NO.
10/1/74	Bank of America	100.00	101
10/2/74	Bank of America	100.00	102
10/3/74	Bank of America	100.00	103
10/4/74	Bank of America	100.00	104
10/5/74	Bank of America	100.00	105
10/6/74	Bank of America	100.00	106
10/7/74	Bank of America	100.00	107
10/8/74	Bank of America	100.00	108
10/9/74	Bank of America	100.00	109
10/10/74	Bank of America	100.00	110

SPECIAL NOTES

**DEKALB COUNTY DEPARTMENT
OF WATERSHED MANAGEMENT:**

PLAT APPROVAL

**OWNER'S
ACKNOWLEDGEMENT**

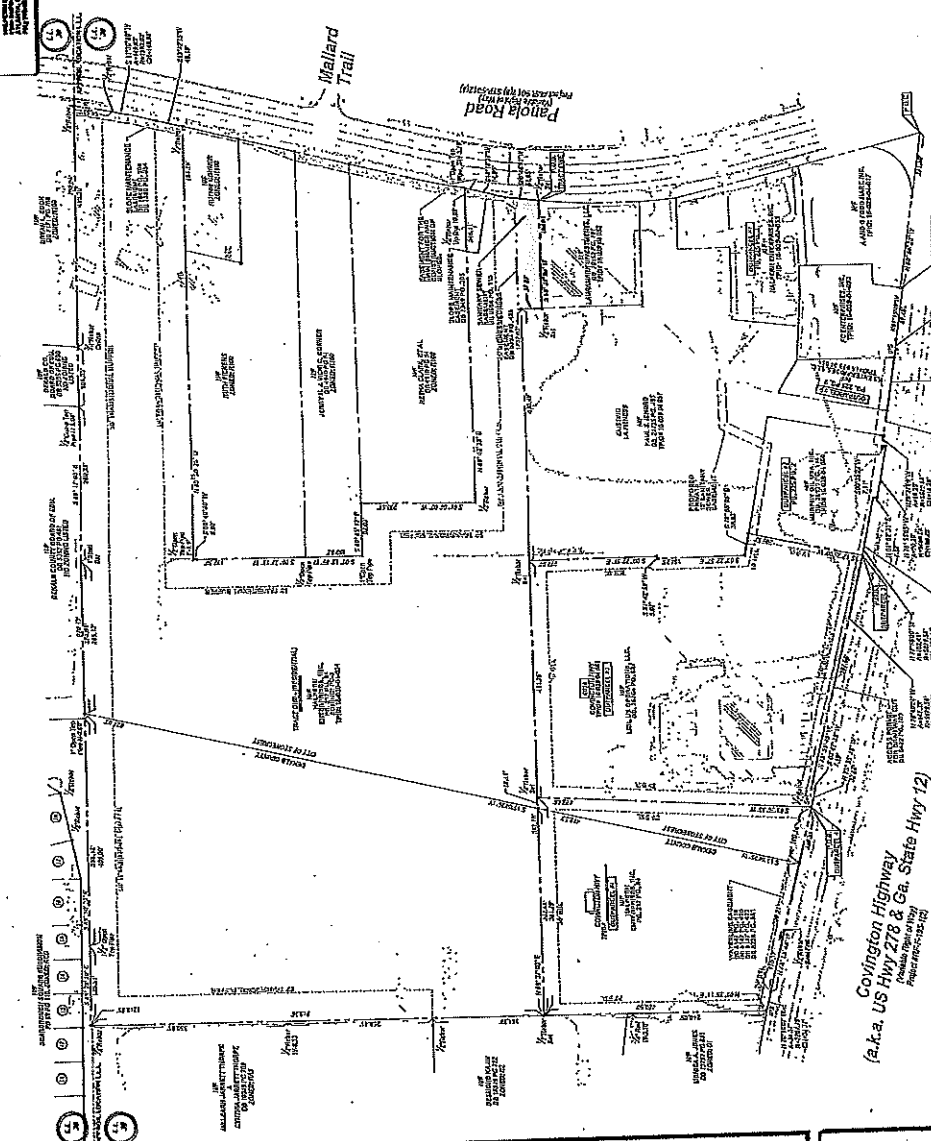
**CERTIFICATE OF
CONFORMITY**

SURVEYOR'S CERTIFICATE



OWNER

CONCEPT



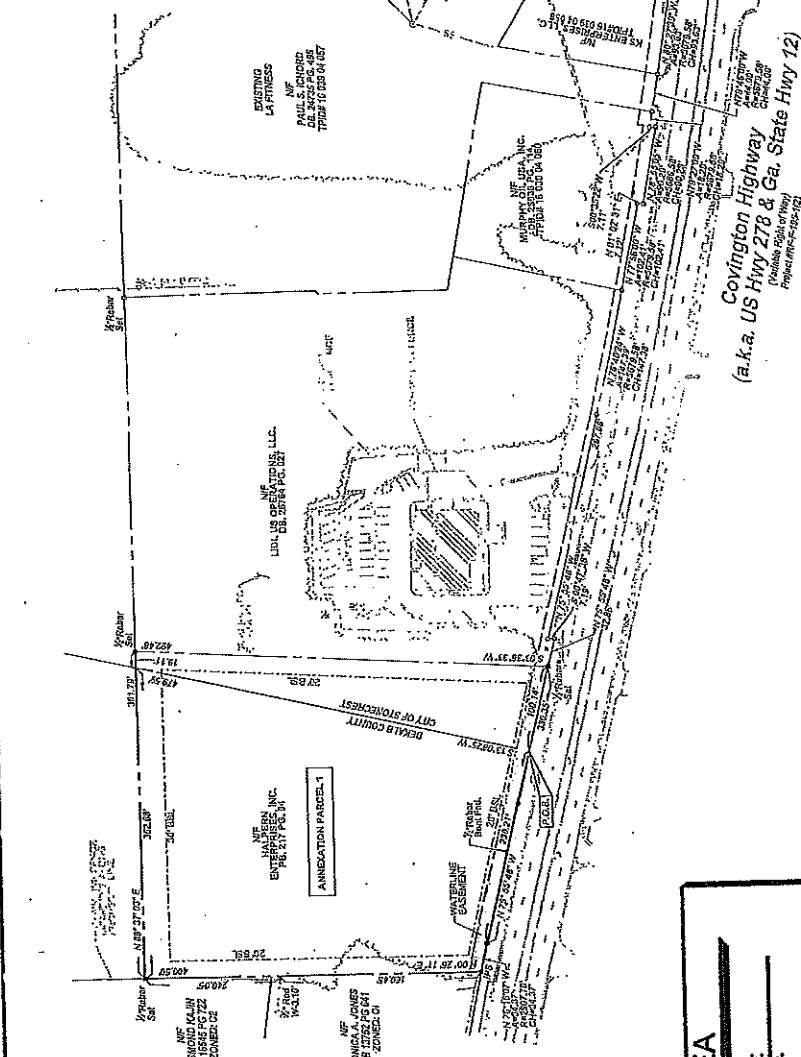
AREA TABLE

TRACT ONE (RESIDENTIAL)	MR. & MRS. S. F.	DR	19,429 AC.	PC-5	ZONING / PETITION NO.
OUT PARCELS THREE	24,169 AC. F1	OR	5,293 AC.	(1-29 OVERLAY DIST)	
OUT PARCELS FOUR	14,753 AC. F1	OR	3,719 AC.	(1-29 OVERLAY DIST)	
TOTAL	1,288,819 Sq. Ft.		OR 28,368 AC.		

SURVEY NOTES

CITY AND COUNTY NOTES

REFERENCE MATERIAL



ANNEXATION PLAT
FOR
WALPERN ENTERPRISES, INC.
(LOCATED IN
LAND LOT 39, 18TH DISTRICT
DEKALB COUNTY, GEORGIA)

[illegible]

TerraMark
1991 Delta Farm Road
Mantoloking, New Jersey 07020
Phone No. (201) 421-1871
Fax No. (201) 421-0555
www.terra-mark.com
REGISTERED LAND SURVEYING & CIVIL ENGINEERING

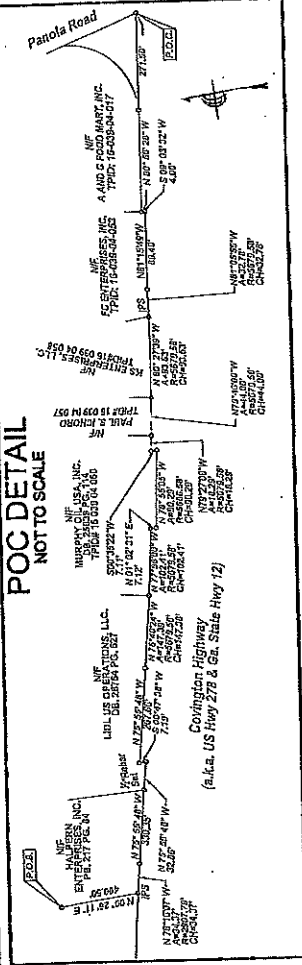
LEGEND

- CASE AND GUTTER (CAG)
FRIDGE
STOVE
SINK
X

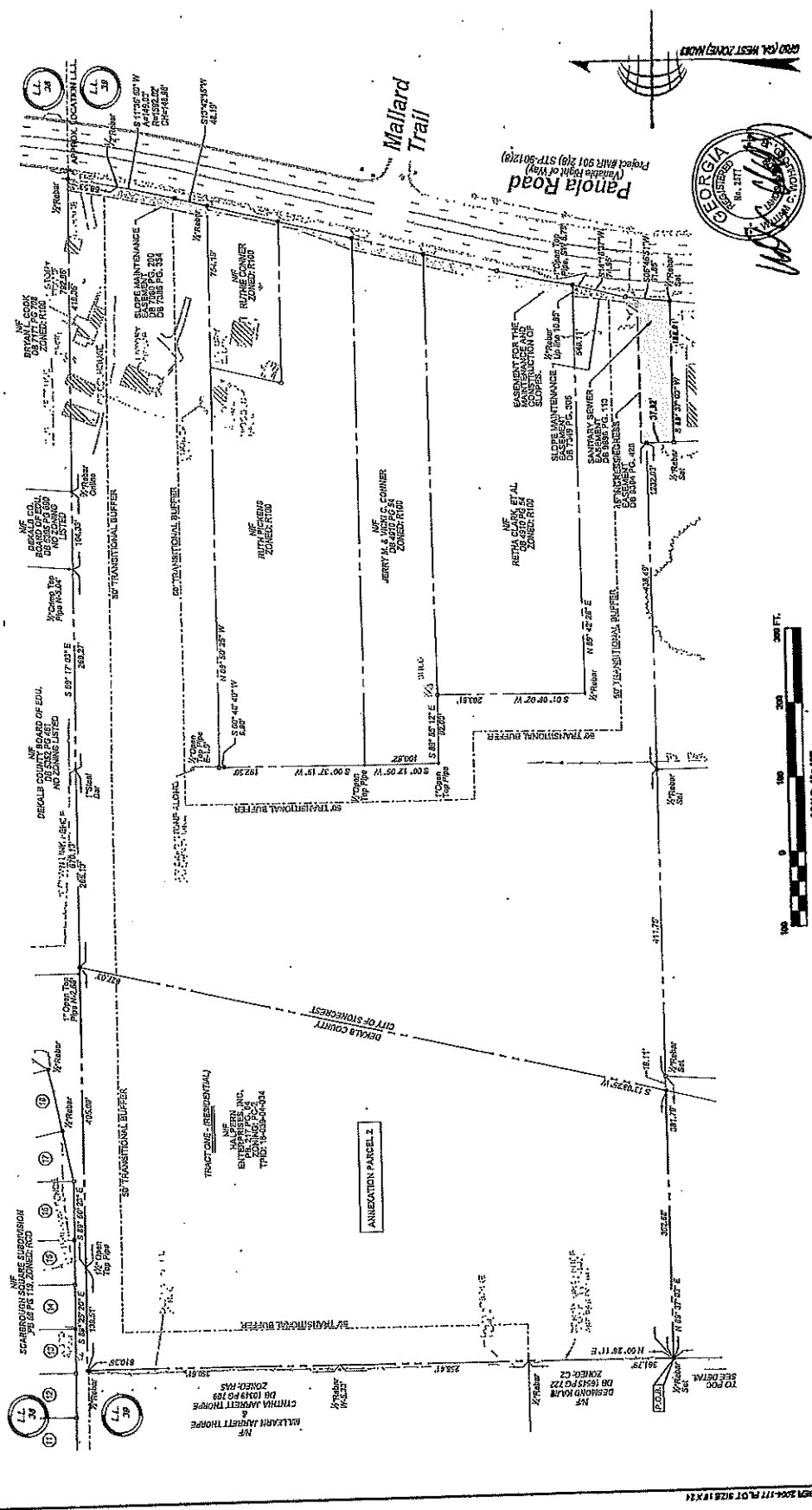
ICE BOX
W.C.
BATH
- CURBS AND DRAIN LANE
SEWER
SANITARY SEWER
PROPERTY LINE
CATCH BASIN (DITCH)
CATCH BASIN (POUCH)
DROP INLET (DI)
JUNCTION BOX (JB)
HEAD WALL (HW)
SS MANHOLE (MH)
CLEAN OUT (CO)
POWER POLE WITH LIGHT
ADDRESS BOX
TRIANGLE
- ①
②
③
④
⑤
⑥
⑦
⑧
⑨
⑩

POC DETAIL
NOT TO SCALE

NOT TO SCALE



THIS BLOCK RECEIVED FOR THE CLERK
OF THE SUPERIOR COURT.



JOHN ALBERT 2004-177 PL.OT SIZE 18 X 21

PROPERTY DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 39, 16th District, DeKalb County, Georgia and being more particularly described as follows:

To find the Point of Beginning, commence at the intersection of the Westerly Right of Way Line of Panola Road (variable width right of way) as per GDOT Right of Way Plans – Project No. MR 901 2(8) STP-9012(8) and the Northerly Right of Way Line of Covington Highway, a.k.a. US Highway 278 (variable width right of way) as per GDOT Right of Way Plans – Project No. RF-F-195-1(2); thence, leaving said point and running with the said line of Covington Highway, North 80° 56' 28" West, 271.50 feet; thence, South 09° 03' 32" West, 4.00 feet; thence, North 81° 15' 49" West, 89.46 feet; thence, 32.78 feet along the arc of a curve deflecting to the right, having a radius of 5,679.58 feet and a chord bearing and distance of North 81° 05' 55" West, 32.78 feet; thence, 155.92 feet along the arc of a curve deflecting to the right, having a radius of 5,679.58 feet and a chord bearing and distance of North 80° 08' 48" West, 155.92 feet; thence, South 00° 35' 22" West, 7.11 feet; thence, 90.26 feet along the arc of a curve deflecting to the right, having a radius of 5,686.58 feet and a chord bearing and distance of North 78° 55' 05" West, 90.26 feet; thence, North 01° 02' 26" East, 7.12 feet; thence, 249.80 feet along the arc of a curve deflecting to the right, having a radius of 5,679.58 feet and a chord bearing and distance of North 77° 11' 24" West, 249.78 feet; thence, North 75° 55' 48" West, 267.66 feet; thence, South 00° 47' 38" West, 7.19 feet; thence, North 75° 55' 48" West, 363.21 feet; thence, 34.37 feet along the arc of a curve deflecting to the left, having a radius of 2,907.79 feet and a chord bearing and distance of North 76° 16' 07" West, 34.37 feet; thence, leaving the aforesaid line of Covington Highway and running, North 00° 26' 11" East, 400.50 feet to the True Point of Beginning of the herein described tract or parcel of land; thence, leaving the said Point of Beginning and continuing in the previous direction

1. North 00° 26' 11" East, 810.36 feet to a ½ inch rebar found on the North Line of aforesaid Land Lot 39; thence, running with the said line of Land Lot 39
2. South 89° 25' 20" East, 139.51 feet to a ½ inch open top pipe found; thence,
3. South 89° 50' 23" East, 405.00 feet +/- to the line of the City of Stonecrest, Georgia; thence, running with the said line between the City of Stonecrest and DeKalb County
4. Southwest, 827.03 feet +/- to a point on the proposed line between the commercial and residential property; thence, running with the said line
5. South 89° 37' 03" West, 280.17 feet +/- to the Point of Beginning, containing 8.41 Acres of land, more or less.

Property is subject to all easements and rights of way recorded and unrecorded.

PROPERTY DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 39, 16th District, DeKalb County, Georgia and being more particularly described as follows:

To find the Point of Beginning, commence at the intersection of the Westerly Right of Way Line of Panola Road (variable width right of way) as per GDOT Right of Way Plans – Project No. MR 901 2(8) STP-9012(8) and the Northerly Right of Way Line of Covington Highway, a.k.a. US Highway 278 (variable width right of way) as per GDOT Right of Way Plans – Project No. RF-F-195-1(2); thence, leaving said point and running with the said line of Covington Highway, North 80° 56' 28" West, 271.50 feet; thence, South 09° 03' 32" West, 4.00 feet; thence, North 81° 15' 49" West, 89.46 feet; thence, 32.78 feet along the arc of a curve deflecting to the right, having a radius of 5,679.58 feet and a chord bearing and distance of North 81° 05' 55" West, 32.78 feet; thence, 155.92 feet along the arc of a curve deflecting to the right, having a radius of 5,679.58 feet and a chord bearing and distance of North 80° 08' 48" West, 155.92 feet; thence, South 00° 35' 22" West, 7.11 feet; thence, 90.26 feet along the arc of a curve deflecting to the right, having a radius of 5,686.58 feet and a chord bearing and distance of North 78° 55' 05" West, 90.26 feet; thence, North 01° 02' 26" East, 7.12 feet; thence, 249.80 feet along the arc of a curve deflecting to the right, having a radius of 5,679.58 feet and a chord bearing and distance of North 77° 11' 24" West, 249.78 feet; thence, North 75° 55' 48" West, 267.66 feet; thence, South 00° 47' 38" West, 7.19 feet; thence, North 75° 55' 48" West, 133.00 feet to the True Point of Beginning of the herein described tract or parcel of land; thence, leaving the said Point of Beginning and continuing in the previous direction

1. North 75° 55' 48" West, 363.21 feet; thence,
2. 34.37 feet along the arc of a curve deflecting to the left, having a radius of 2,907.79 feet and a chord bearing and distance of North 76° 16' 07" West, 34.37 feet; thence, leaving the aforesaid line of Covington Highway and running,
3. North 00° 26' 11" East, 400.50 feet to a point on the proposed line between the commercial and residential property; thence, running with the said line
4. North 89° 37' 03" East, 362.68 feet +/- to the line of the City of Stonecrest, Georgia; thence, running with the said line between the City of Stonecrest and DeKalb County
5. Southwest, 479.59 feet +/- to the Point of Beginning, containing 3.12 Acres of land, more or less.

Property is subject to all easements and rights of way recorded and unrecorded.



SEWER CAPACITY EVALUATION REQUEST

Department of Watershed Management

Project Information:

Project Address:	6024 COVINGTON HIGHWAY DECATUR GA 30035 (City, State, Zip Code)	Project Name:	Covington Highway and Panola Road
Intended Tie-In Manhole:	16-039-s035	Type of Development:	Private (Private or Government)
Total Peak Flow Requesting:	153,600 GPD (Calculated Peak Flow - Existing Flow)	Land Lot and Parcel ID:	LL 039, Parcel ID 16 039 04 034
		County District:	16th

Developer's Information:

Company's Name:	Rocklyn Homes	Address:	3505 Koger Blvd, Suite 275
Contact Name:	Tim Jenkins	City, State, Zip Code:	Duluth, GA 30096
Phone Number:	404-424-6723	Email Address:	tjenkins@rocklynhomes.com

Engineering Firm's Information:

Company's Name:	Civil Engineering Consults INC	Address:	4994 Lower Roswell Rd suite 17
Contact Name:	Andrew Lovejoy	City, State, Zip Code:	Marietta, GA 30068
Phone Number:	404-717-5809	Email Address:	andy@cec.engineering

Please include the following items in your submittal package:

- ☒ Proposed Peak Daily Flow Calculation based on attached guidelines (See Appendix A)
 - ☐ Existing Developments
 - ☒ New Conditions
- ☒ Separate detailed calculation sheet signed by the owner or owner's representative for each project (See Appendix B)
- ☐ Estimate of anticipated peak hour flow and instantaneous peak hour flow for each industrial, commercial, and mixed-use project; and for each residential project that is over four stories in height
- ☒ Geographical Information System (GIS) map clearly showing the proposed site (s) surrounds areas, and utilities
- ☐ Proposed utility plan, if available

Name: Andrew Lovejoy

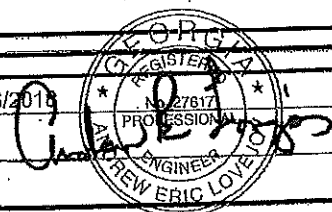
Date:

04/16/2018

Signed:

Andrew R. Lovejoy

Seal:



Capacity Evaluation Request will not be accepted until form is fully completed and all supplemental information is attached. Once Capacity Request Package has been reviewed and accepted by our internal staff, a letter will be completed within 60 days.

Internal Use Only

Date Capacity Request

Reviewed and Accepted:

Received By:

Signed:

Appendix - B

Table 1: Sanitary Flow Contributions from Site Specific Sources

CONTRIBUTOR	UNIT	Design Average Daily Flow (gpd)
Residence, single family	per residence	240
Residence, multiple family (including apartments)	per unit	240
Commercial/Mercantile Building	per 1,000 square feet	75
Industrial/Warehouse (not including food service)	per 1,000 square feet	75
Offices (not including food service)	per 1,000 square feet	175
Shopping Center (not including food service)	per 1,000 square feet	100
Restaurant/Coffee Shop/Fast Food/ Bar/Tavern	per 1,000 square feet	1,650
Amusement/Recreation/Arcade	per 1,000 square feet	200
Barber Shop/Beauty Salon	per customer station	333
Caterer	per 1,000 square feet	3,300
Church (not including food service or day schools)	per 1,000 square feet	65
Coin Laundries	per machine	400
Commercial Laundries	per machine	640
Hospitals	per bed	200
Nursing Home	per bed	125
Motel/Hotel	per room	100
Police/Fire Station - w/ residents	per bed	125
Police/Fire Station - w/o food service	per 1,000 square feet	175
School - w/ kitchen	per 1,000 square feet	200
School - w/ cafeteria	per 1,000 square feet	250
School - w/ cafeteria and gym	per 1,000 square feet	400
Service Station	per fuel pump unit	120
Theater/Museum/Auditorium	per 1,000 square feet	65
Other facility not listed:	Subject to Approval by the County	

gpd = gallons per day

Total

NOTE: Design peak flow rates shall be calculated by multiplying the total design average daily flow rate determined per the table above by a peaking factor of 4.0.

May-17

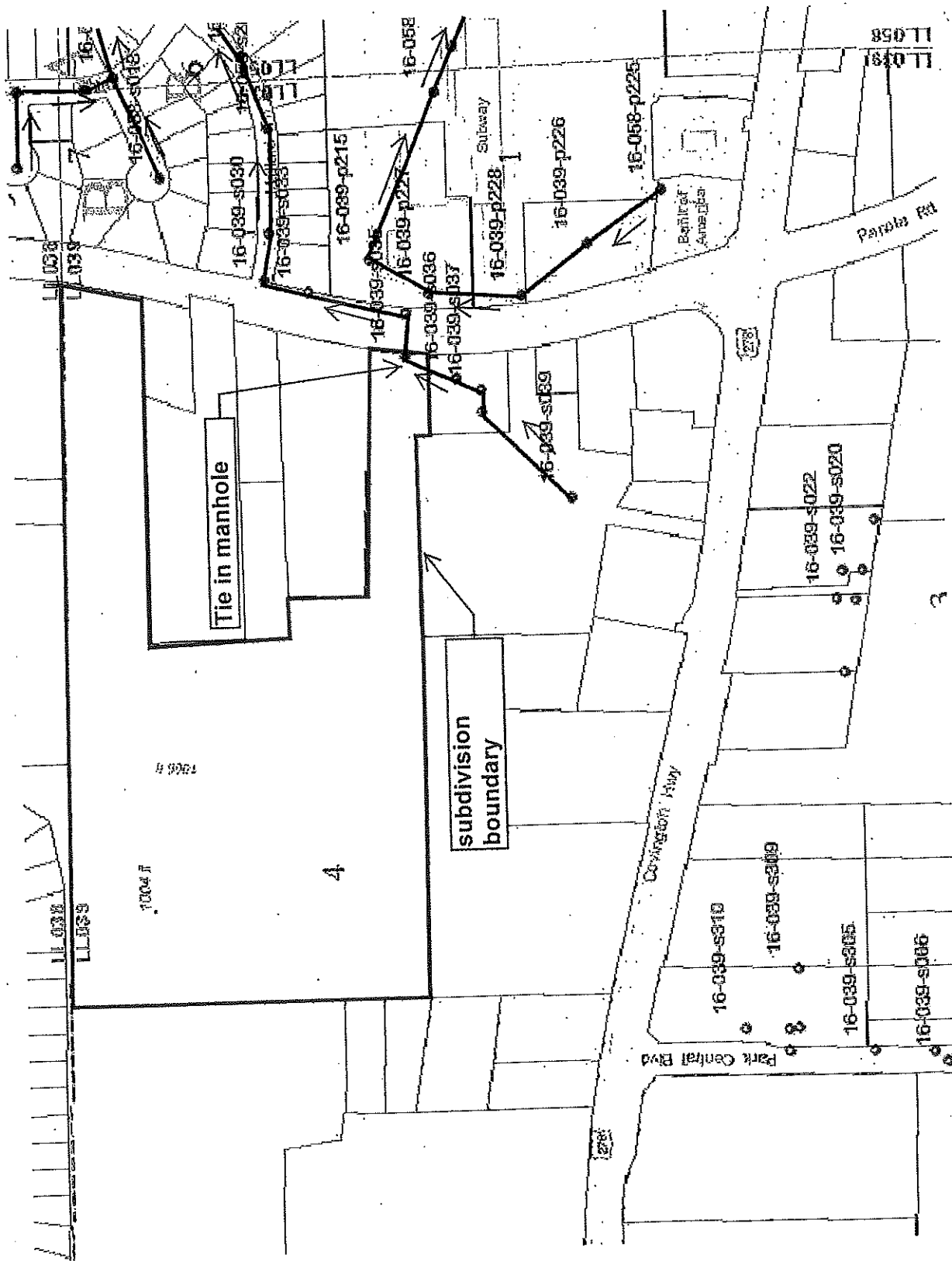
Sewer Calculation for Covington Highway and Panola Road

The proposed subdivision consists of one hundred and sixty (160) 3-bedroom townhomes. The average daily flow using DeKalb County's requirement of 240 gpd/unit is as follows:

$$\text{Average Daily Flow} = 160 \text{ unit} \times 240 \frac{\text{gpd}}{\text{unit}} = 38,400 \text{ gpd}$$

Using the Peak Factor of 4, the peak flow is calculated as follows:

$$\text{Peak Flow} = \text{ADF} \times \text{PF} = 38,400 \text{ gpd} \times 4.0 = 153,600 \text{ gpd}$$



ENGINEER:

FORESITE
group

ForeSite Group, Inc.
1111 Peachtree Street, N.E.
Atlanta, Georgia 30309
Phone: 404.525.1111
Fax: 404.525.1112

OWNER:

HALPERN

HALPERN GROUP, INC.
1111 Peachtree Street, N.E.
Atlanta, Georgia 30309
Phone: 404.525.1111
Fax: 404.525.1112

CONTACT: MATT OPPENHEIMER

CONVENTION HALL & PANOLA ROAD
REDU, DEKALB COUNTY, GA 30034

PROJECT

PHASE

DATE
REVISION
CLIENT COMMENTS
CLIENT COMMENTS
CLIENT COMMENTS

PROJECT MANAGER
DATE
DRAWN BY
CHECKED BY
DATE
SCALE
TILE

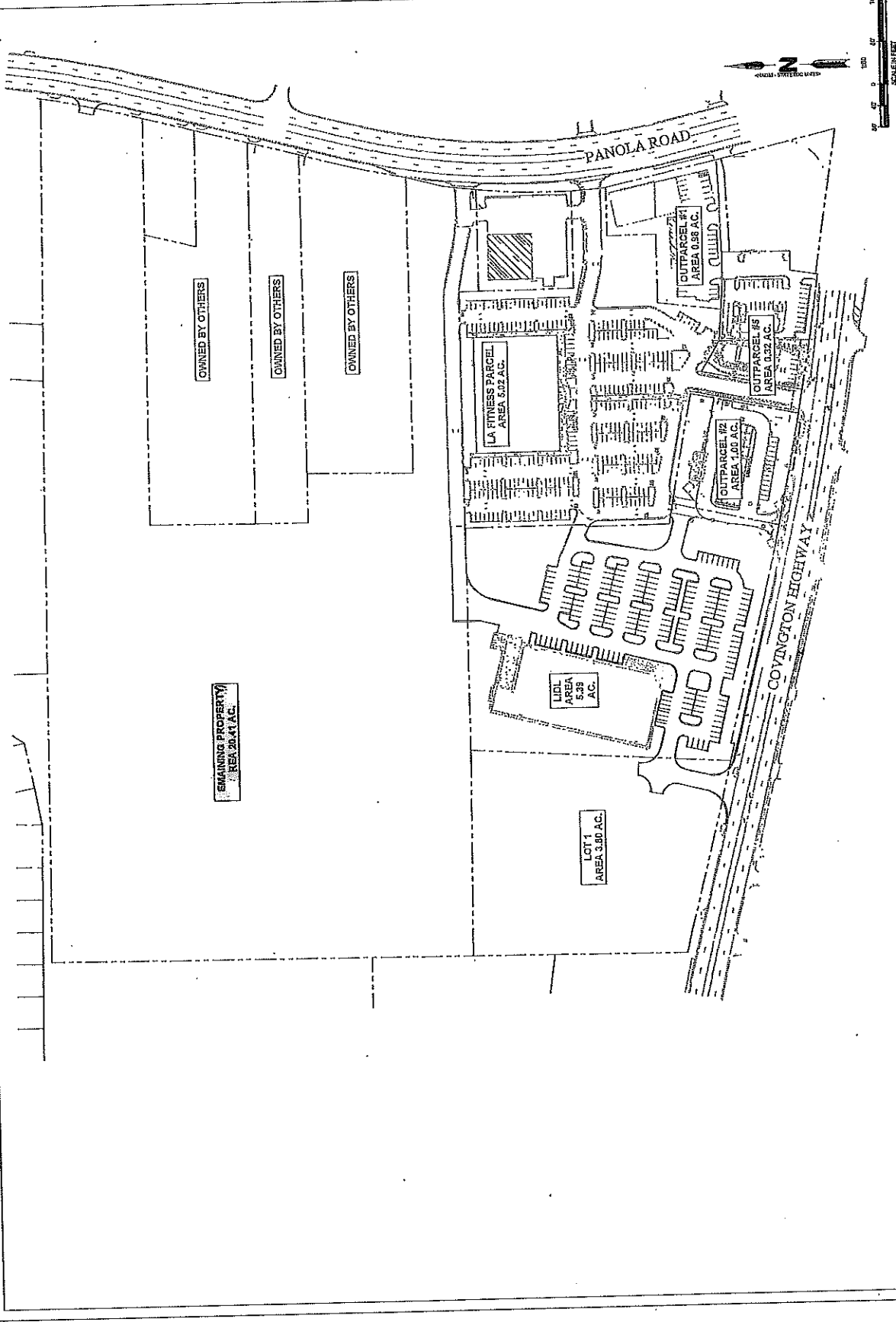
**PROPERTY
EXHIBIT**

SHEET NUMBER

1 OF 1

CAUTION: NOT RELEASED FOR CONSTRUCTION

APPENDIX: 084.024



**DeKalb County School District
Development Review Comments**

Analysis Date: 3/22/2018

Submitted to: City of Stonecrest/Battle Law PC

Case #:
Parcel #: 16 039 04 034

Name of Development: 6024 Covington Hwy
Location: Near Covington Hwy and Panola Road

Description: New townhome community proposed for vacant lot near Covington Hwy and Panola Road with 160 units

Impact of Development: When fully constructed, this development would be expected to generate 72 students: 16 at Murphey Candler ES, 12 at Miller Grove MS, 14 at Miller Grove HS, 27 at other DCSD schools and 3 in private schools. Based on the enrollment forecast for October 2018, Panola Way Es and Miller Grove HS and MS have capacity for additional students. Although Miller Grove HS is forecasted to be close to capacity in October 2018, the long-term forecast has declining enrollment. Therefore, capacity should be available for new development.

	Panola Way	Miller Grove	Miller Grove	Other	Private	
	ES	MS	HS	DCSD	Schools	Total
Current Condition of Schools						
Capacity	955	1,127	1,388			
Portables	0	0	0			
Enrollment (Fcst. Oct. 2018)	894	898	1,354			
Seats Available	61	229	34			
Utilization (%)	93.6%	79.7%	97.6%			
New students from development	16	12	14	27	3	72
New Enrollment	910	910	1,368			
New Seats Available	45	217	20			
New Utilization	95.3%	80.7%	98.6%			

Yield Rates	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	0.103070	0.108207	0.005198	0.211276
Middle	0.073146	0.022085	0.004660	0.095231
High	0.084586	0.036043	0.004123	0.120629
Total	0.2608	0.1663	0.0140	0.4271
Student Calculations				
Proposed Units	160			
Unit Type	TH			
Cluster	Miller Grove			
Units x Yield	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	16.49	17.31	0.83	34.63
Middle	11.70	3.53	0.75	15.98
High	13.53	5.77	0.66	19.96
Total	41.72	26.61	2.24	70.57
Anticipated Students	Attend Home School	Attend other DCSD School	Private School	Total
Panola Way ES	16	17	1	34
Miller Grove MS	12	4	1	17
Miller Grove HS	14	6	1	21
Total	42	27	3	72

CARTEL PROPERTIES II LLC	340 E PACES FERRY RD NE	ATLANTA, GA	30305
A AND G FOOD MART INC	6114 COVINGTON HWY	DECATUR, GA	30035
HATCO LLC	2272 PARK CENTRAL	DECATUR, GA	30035
CONNER VICKIE L	277 RIVER LAKE DR	EATONTON, GA	31024
6087 COVINGTON HIGHWAY LLC	5854 GOSHEN SPRINGS RD	NORCROSS, GA	30071
CONNER VICKIE L	277 RIVER LAKE DR	EATONTON, GA	31024
NWP COVINGTON LLC	4585 E PICKARD	MOUNT PLEASANT, MI	48858
DS AND SS PROPERTIES INC	6099 COVINGTON HWY	DECATUR, GA	30035
SOTO LUIS R	6025 COVINGTON HWY	DECATUR, GA	30035
JACKSON EARL	6063 COVINGTON HWY	DECATUR, GA	30035
LAURMARK INVESTMENTS LLC	4413 BLACK STALLION DR NE	ROSWELL, GA	30075
FC ENTERPRISES INC	2199 GLENMORE LN	SNELLVILLE, GA	30078
PICKENS RUTH	12961 HIGHWAY 142	NEWBORN, GA	30056
PICKENS DAVID F MRS	755 PICKLESIMER MTN	MORGANTON, GA	30058
DEKALB BOARD OF EDUCATION	1701 MOUNTAIN INDUSTRIAL BLVD	STONE MOUNTAIN, GA	30083
GOSHANE KASSAHUN G	2208 IDLEWOOD RD	TUCKER, GA	30084
HATCO LLC	2272 PARK CENTRAL F	DECATUR, GA	30035
THOMAS MICHAEL	2553 OLD COVINGTON RD NE	CONYERS, GA	30013
HATCO LLC	2272 PARK CENTRAL BLVD	DECATUR, GA	30035
UB II PLAID DECATUR LLC	9450 W BRYN MAWR	ROSEMONT, IL	60018
HALPERN ENTERPRISES INC	5269 BUFORD HWY NE	DORAVILLE, GA	30340
HALPERN ENTERPRISES INC	5200 ROSWELL RD NE	ATLANTA, GA	30342
HALPERN ENTERPRISES INC	5200 ROSWELL RD NE	ATLANTA, GA	30342
TRADITIONAL REAL ESTATE LLC	6049 COVINGTON HWY	DECATUR, GA	30035
NWP PANOLA LLC	PO BOX 510	MOUNT PLEASANT, MI	48804
ICHORD PAUL S	2718 CRABTREE RD	MANTECA, CA	95336
GCTV SUB 2 CORPORATION	1 COMCAST CENTER	PHILADELPHIA, PA	19103
KS ENTERPRISES LLC	6092 COVINGTON HWY	DECATUR, GA	30035
THOMAS MICHAEL	2553 OLD COVINGTON RD NE	CONYERS, GA	30013
KREATIVE KIDS ACADEMY LLC	6007 COVINGTON HWY	DECATUR, GA	30035
CONNER ESTELLE RUTHIE	12961 HIGHWAY 142	NEWBORN, GA	30056
GREAVES GRACE	72 4TH ST	BRENTWOOD, NY	11717
AGA ENTERPRISE INC	5995 COVINGTON HWY	DECATUR, GA	30035
RAW ASSOCIATES LLC	4585 E PICKARD ST	MOUNT PLEASANT, MI	48858

MURPHY OIL USA INC
HOME SFR BORROWER LLC
LENOIR JOYCE
DEKALB BOARD OF EDUCATION
GAITHER KATRINA
HALPERN ENTERPRISES INC

P O BOX 7300
8300 N MOPAC EXPRESSWAY
5431 MALLARD TRL
1701 MOUNTAIN INDUSTRIAL BLVD
5421 MALLARD TRL
5200 ROSWELL RD

EL DORADO, AR
AUSTIN, TX
LITHONIA, GA
STONE MOUNTAIN, GA
LITHONIA, GA
ATLANTA, GA

71731
78759
30058
30083
30058
30342

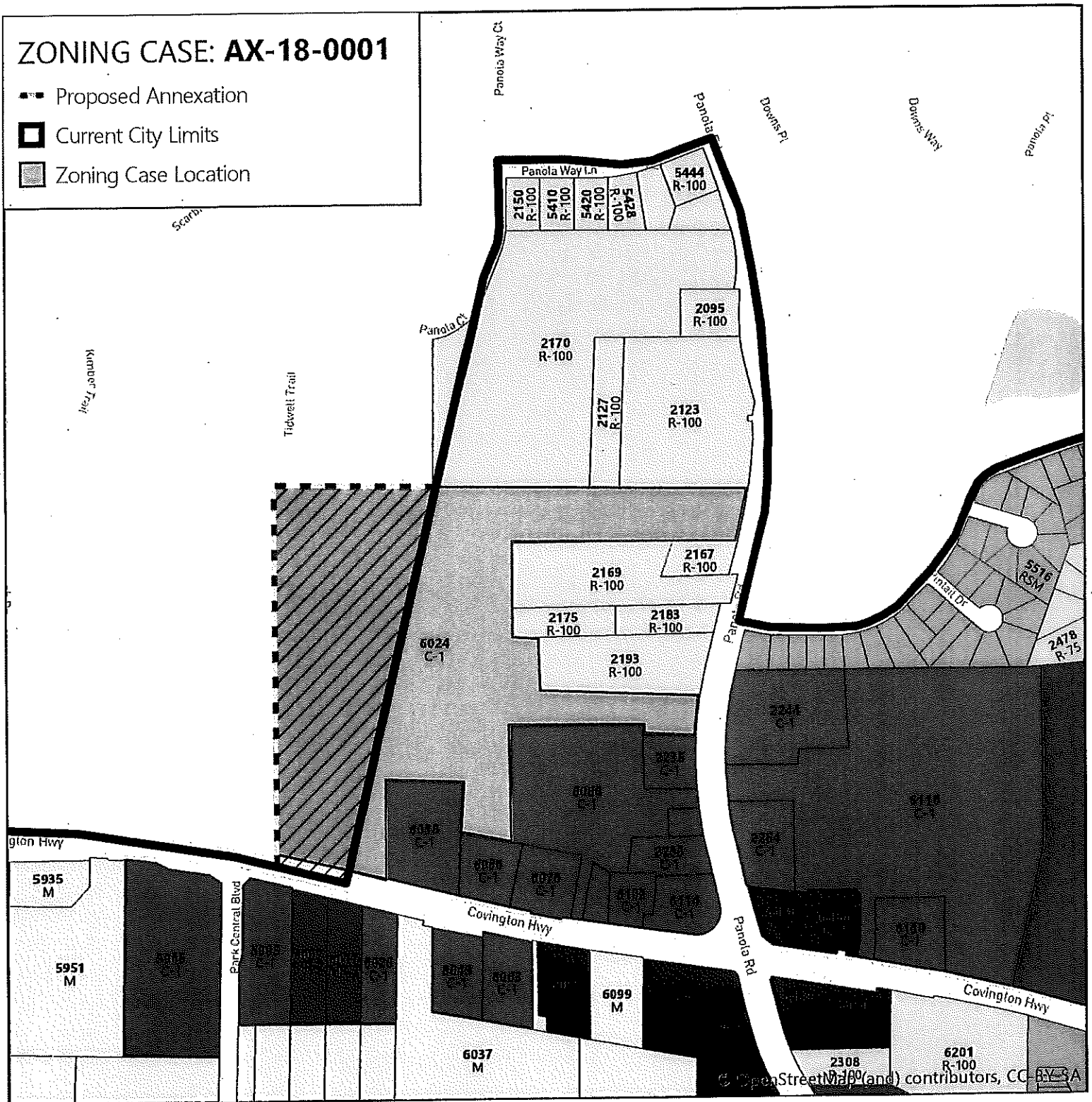


PLANNING COMMISSION STAFF REPORT

ATTACHMENT #3

ZONING CASE: AX-18-0001

- Proposed Annexation
- Current City Limits
- Zoning Case Location





CITY COUNCIL AGENDA ITEM

**SUBJECT: RZ-18-003 6554 & 6560 Chupp Road / 7247 & 7257
Covington Hwy / 2601 & 2616 Macedonia**

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

Date Submitted: 10/10/18 Work Section: Council Meeting: 10/15/2018

SUBMITTED BY: Nicole Dozier, Community Development Department
Director

PURPOSE: 1) The applicant is requesting a to change four in conditions of CZ-04019 to construct 240 townhome units with commercial components.

HISTORY: This application was originally heard at the August 7th, 2018 Planning Commission Meeting. The Commission recommended deferral of the application. The application then was heard at August 20th, 2018 City Council hearing and was referred back to the Planning Commission

OPTIONS: Approve; Deny; or make Alternative conditions

RECOMMENDATED ACTION:

Staff recommended approval of petition RZ 18-005 at the October 09, 2018 meeting with conditions. Planning Commission recommended approval of petition RZ-18-003 at the October 09, 2018 meeting with conditions.

ATTACHMENTS:

- #1 10/15/18 Staff Report
- #2 10/15/18 PowerPoint Presentation



PLANNING COMMISSION STAFF REPORT

MEETING DATE: October 9th, 2018

GENERAL INFORMATION

Petition Number: RZ-18-003

Applicant: LDG Development c/o Battle Law

Owner: Lalithia LLC

Project Location: 6554 & 6560 Chupp Road / 7247 & 7257 Covington Hwy / 2601 & 2616 Macdeonia

District: District 1

Acreage: 58.216 acres

Existing Zoning: C-1 (Local Commercial), O-I (Office- Institutional) and RSM (Residential Medium Lot) District Conditional CZ-04019

Proposed Zoning: C-1 (Local Commercial), O-I (Office-Institutional) and RSM (Residential Medium Lot) District Conditional CZ-04019

Proposed Development/Request: Applicant is requesting to change four in conditions of CZ-04019 to construct 240 townhome units with commercial components.

***This application was originally heard at the August 7th 2018 Planning Commission Meeting. The Commission recommended deferral of the application. The application then was heard at August 20th 2018 City Council hearing and was referred back to the Planning Commission.**

Staff Recommendations: Approved with Conditions

RZ 18-003

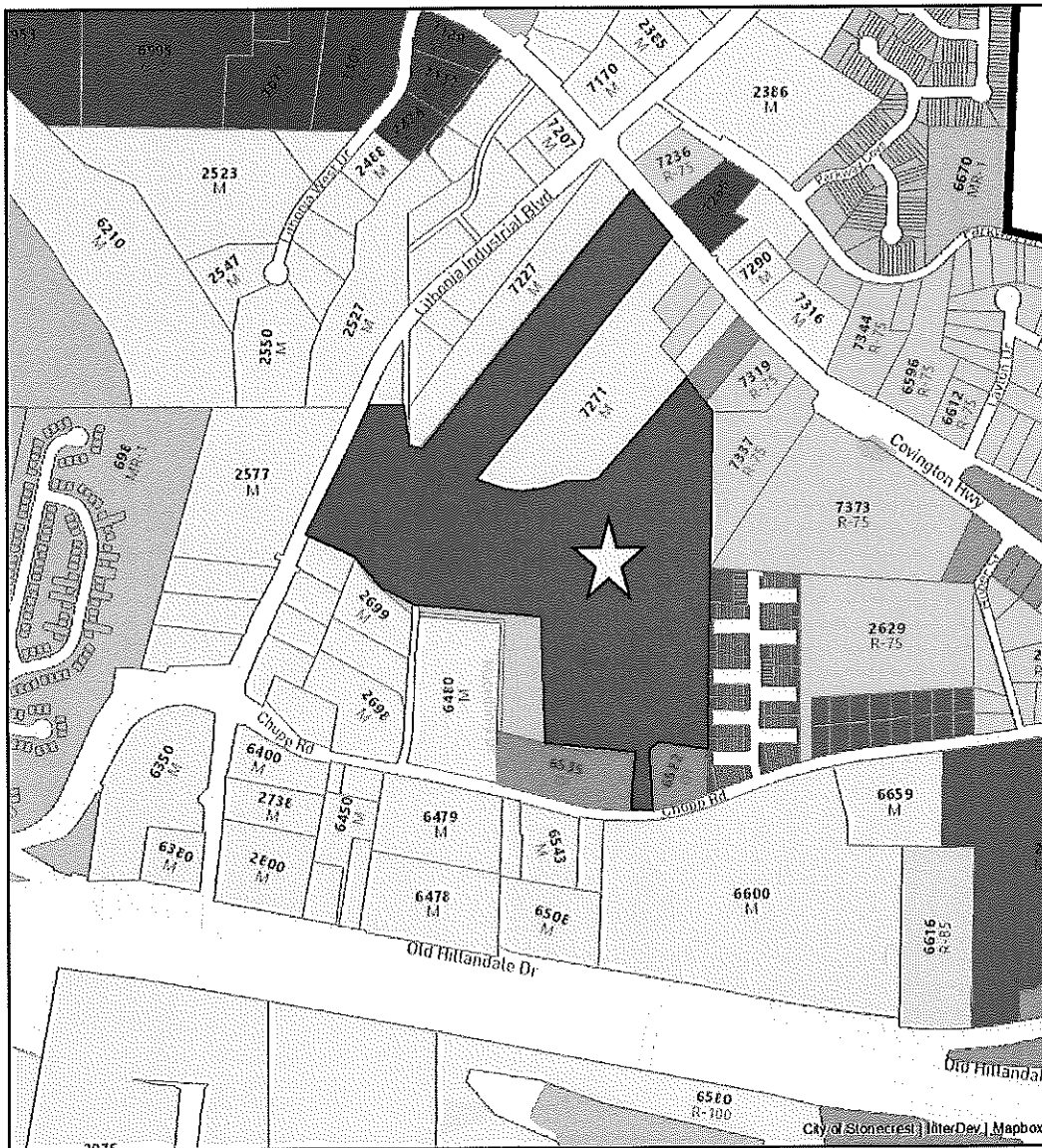
Attachment #1

10/15/18 Staff Report



PLANNING COMMISSION STAFF REPORT

Zoning Map



ZONING CASE: **RZ-18-003**

ADDRESS: **6554 Chupp Road / 7247 Covington Hwy**

CURRENT ZONING: **C-1 / RSM / O-I**

FUTURE LAND USE: **Ind / Sub / HC**



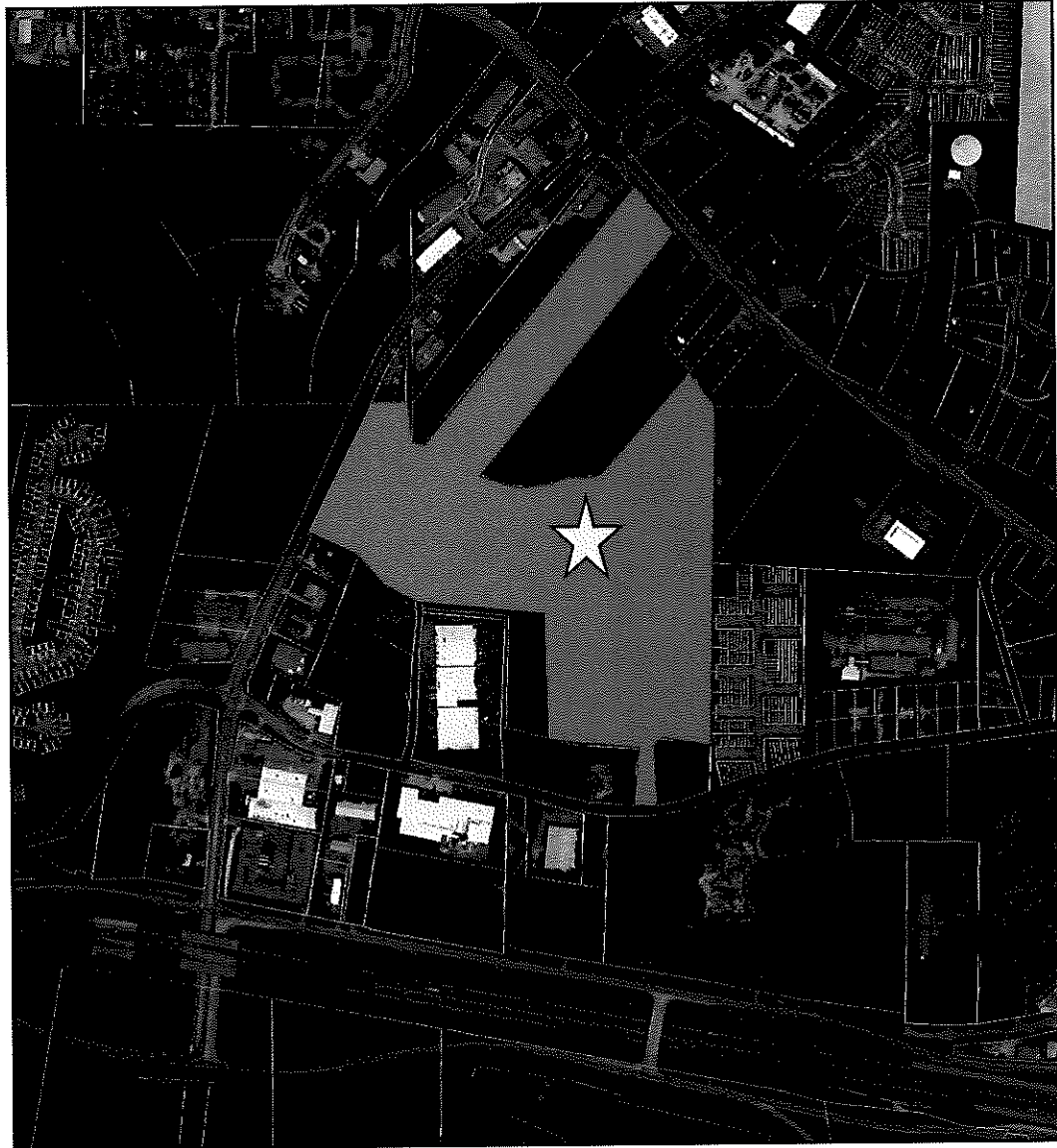
Subject Site

0 0.1 0.2 mi



PLANNING COMMISSION STAFF REPORT

Aerial Map



ZONING CASE: RZ-18-003

ADDRESS: **6554 Chupp Road / 7247 Covington Hwy**

CURRENT ZONING: **C-1 / RSM / O-I**

FUTURE LAND USE: **Ind / Sub / HC**



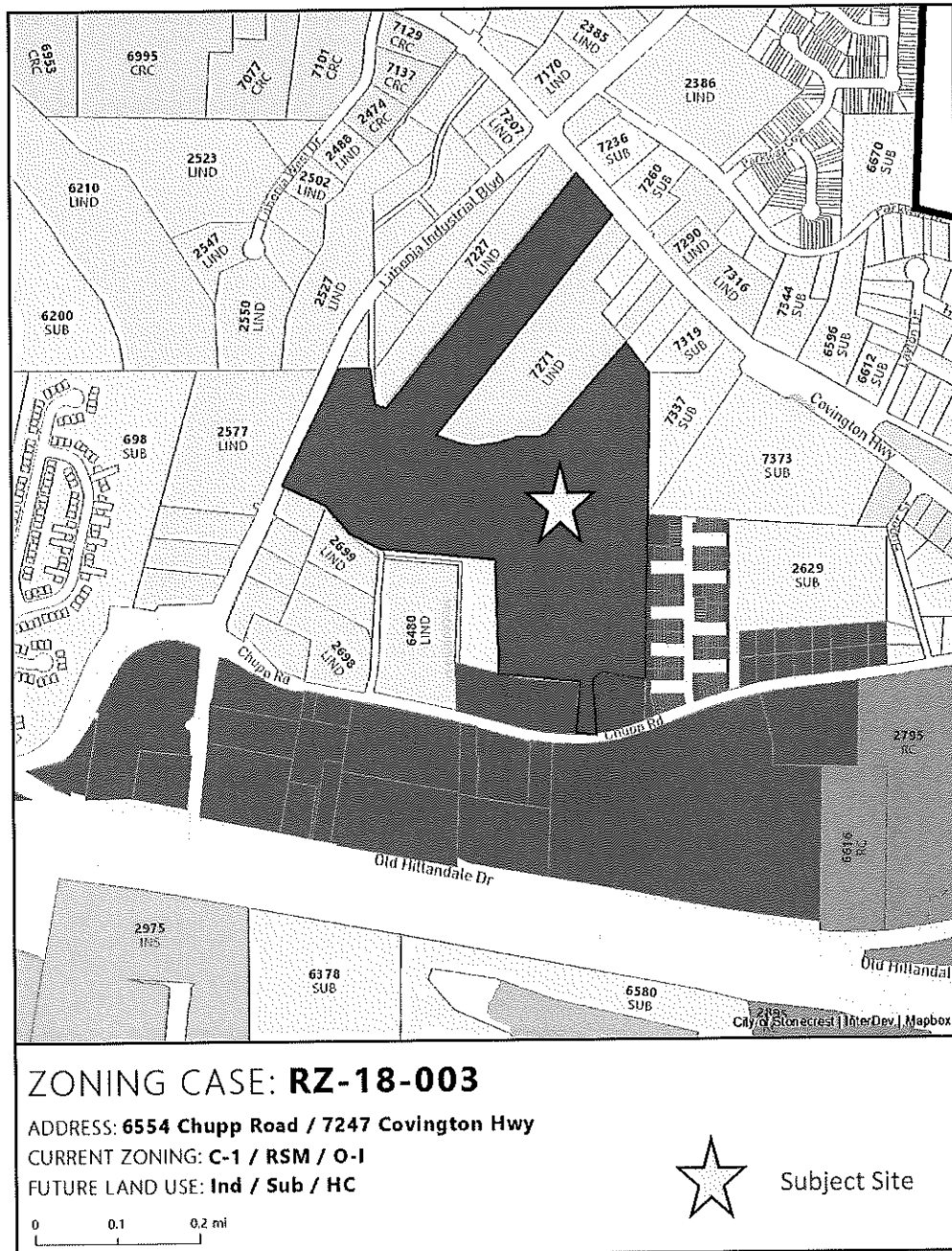
Subject Site

0 0.1 0.2 mi



PLANNING COMMISSION STAFF REPORT

Future Land Use Map





PLANNING COMMISSION STAFF REPORT

PROJECT OVERVIEW

The applicant is requesting a change in zoning condition of zoning case CZ-0419, to allow the construction of the residential portion of a mixed-use development. The applicant is requesting to modify four of the eighteen zoning conditions. The applicant has requested the following conditions to be eliminated;

- (1) Condition number 1. All common area shall be maintained by a mandatory homeowner's associations.
- (2) Condition number 2. All residential dwellings units shall have a minimum of 1400 square feet of heated space.
- (3) Condition number 11. All dwelling units shall have an attached garage for at least one (1) car.

The applicant has requested for the following conditions to be modified:

- (4) The Development shall contain at least 20,000 thousand square feet of commercial space. No liquor stores, pawn shops, check cashing, billiards halls or nail salons shall be allowed on the Subject Property.

The applicant intends to construct two-hundred and forty townhome rental units at a density of 4.57 units per acre. There is a total of six (6) individual properties that create the subject property to have a total acreage of 58.6 acres. The square footage of the proposed townhome units will be between 1,050 and 1200 square feet. The proposed site plan indicates a gated townhome development with two proposed points of access located on Chupp Road and Covington Hwy. The proposed site plan also shows 116,000 sq. ft of commercial retail space within 3 commercial structures on site. The site total development area is 386,000 sq. ft. The Future Development Map shows the subject property character areas to be Light Industrial, Suburban, and Highway Corridor. The subject property is located in the Stonecrest Tier 4 Overlay District as well.

Currently, the subject properties are heavily wooded and undeveloped with two frontages abutting on Covington Highway and Chupp Road. Previously the properties were approved to be rezoned to RSM (Small Lot Residential Mix) District by DeKalb County in 2004 to be a mix-use development. The original intent was to create a low to a medium residential component of ownership housing with office and institutional zoning with commercial zoning for neighborhood shopping services as well as additional community services such as daycare. The entire development would be connected by sidewalks and recreational areas to provide easy access to commercial shopping and office-institutional uses.

The surrounding area is characterized by a mixture of industrially zoned properties and residential properties with few properties being zoned office-institutional and commercial. To the north across Covington Hwy are two residential properties with one being zoned (C-1) Local Commercial (CZ-15-20074) and the other property zoned R-75 (Residential Medium Lot). Abutting the subject property to the north-east are properties that are zoned R-75, M – Light Industrial (CZ-04019) and Office-Institutional (CZ-99055). Also, abutting the subject property to the east are properties zoned R-75 (SLUP-09-1446) and (MR-2) Medium Density Residential Zoning Districts (Evans Mills Townhomes). The properties to the south are zoned O-I (CZ-04019). The property to the southwest is zoned M-Light Industrial and the property further to the northwest across Lithonia Industrial Blvd is zoned Light Industrial as well.

A neighborhood meeting was held July 26, 2018, with the community. Approximately fifteen (15) citizens were in attendance for the meeting. A couple of concerns were raised during the meeting, including the type of development the applicant is proposing and the architectural features of the rental homes.



PLANNING COMMISSION STAFF REPORT

STANDARDS OF REVIEW

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

The zoning proposal is in conformity with the policies and intent of the comprehensive plan. As the proposed change in zoning conditions still in harmony with the policies and intent of the comprehensive plan.

- **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.**

The zoning proposal will permit a use the is suitable in view of the use and development of the adjacent and nearby properties. There are established townhome located near the subject property. Located to the East are the Evans Mill Townhomes, which originally developed as fee simple lots, however, some units have to turn into rental properties now.

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

The subject property has a reasonable economic use as currently zoned. The subject property was approved for residential mixed-use development.

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

The zoning proposal will not adversely affect the existing use or usability of the adjacent or nearby properties as the nearby properties have similar zonings which would not negatively affect them.

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

There are no existing 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.**

This use will not adversely affect any historic buildings, sites, districts, or archaeological resources. Currently, there are no historic building, sites, district or archaeological resources on the subject property.

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

The zoning proposal will not result in the excessive or burdensome use of transportation facilities and utilities. The trip generation submits the applicant show the proposed development would generate over 100 trips during peak hours. Traffic impact analysis has been requested by Staff. The development is excepted to generate 124



PLANNING COMMISSION STAFF REPORT

students, 53 at Stoneview ES, 23 at Lithonia MS and 23 at Lithonia HS and 25 at other DeKalb County Schools. Stoneview ES enrollment is already over the facility capacity and this development would require additional portable classrooms to be installed. Lithonia HS may also be impacted and require new portable classrooms.

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

This use will not adversely impact the environment or surrounding natural resources in the city of Stonecrest. There are a stream and floodplain located on the subject property, however, the development will not encroach into the buffer or floodplain.



PLANNING COMMISSION STAFF REPORT

ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use
Nearby: North	C-2 / General Commercial (CZ-15-20074)	Commercial
Adjacent: South	O-I / Office-Institutional (CZ-04019)	Office
Adjacent: North-East	R-75 / Residential Medium Lot District (SLUP-09-1446)	Residential (Church)
Nearby: North-East	O-I / Office-Institutional (CZ-99055)	Office
Adjacent: East	MR-2 (Medium Density Residential) District	Townhomes (Evans Mills Townhomes)
Adjacent: West	M (Light Industrial) District	Industrial

The surrounding area is characterized as a mixture of residential zoning tracts and industrial tracts with a few commercial zoned tracts. Located to the North across Covington Hwy are a commercially zoned tract and a single-family home. Located to the South are two parcels that are zoned Office-Institutional. Adjacent to the East is the Evans Mills Townhomes which are zoned MR-2. Located to the West across Lithonia Industrial is Light Industrial zoned parcels.

The existing zoning of Residential Small Lot District (RSM) is to provide for the creation of residential neighborhoods that allow a mix of single-family attached and detached housing options. The minimum units per acres for RSM is 4 units/acre while the max density would be 8 units/acre. The applicant proposed density is 4.57 units per acre is in harmony with the underlying zoning. The minimum lot area for urban single-family homes is 1,350 square feet while the single family (townhome) is 1,000 square feet. The proposed 1000 square feet of heat floor space is similar to the surrounding residential developments; however, staff desires a more upscale development with larger heated floor space (1400) with a garage which was originally approved by DeKalb County.

The City of Stonecrest Future Development Map as shown on pages 73 and 77 of DeKalb County Comprehensive Plan identifies the subject properties as being within Character Area Industrial and Suburban. The subject property is in the Stonecrest Tier 4 Overlay District Overlay zoning districts are which additional regulatory standards are superimposed on existing zoning. Overlay districts provide a method of placing special restrictions in addition to those required by basic zoning ordinances.

The intent of this tier IV is to encourage mixed-use development in a well-planned community and encourage principally office, residential and commercial uses to serve the convenience needs of the local community. The applicant intends to develop the residential portion of the property and have the commercial property develop later, which would still meet the intent o the Overlay District.



PLANNING COMMISSION STAFF REPORT

The intent of the Industrial Character Area is to identify areas that are appropriate for more intense industrial and industrial related uses. These areas consist of land used in higher intensity manufacturing, assembly, processing activities where noise, vibration, and air pollution or other nuisance characteristics are not contained on-site. Policies for this character area are to provide appropriate infrastructure support for industrial development in designated industrial areas while protecting the surrounding area from the negative impacts of noise and light pollutants. Even though the future character area does not support residential development, staff believes the future character should have changed once the original development was approved.

The Suburban Character Area is to recognize those areas of the city that have developed in traditional suburban land use patterns while encouraging new development to have increased connectivity and accessibility. Policies for this character area is to protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density. The proposed development would not alter the established residential development but would be in harmony as intended by the comprehensive plan.

The applicant has requested for four (4) of the eighteen conditions to be changed. Staff agree some of the conditions can be removed while others can be modified, therefore the Department of Community Development recommends **APPROVAL of RZ-18-003 with Conditions.**

RECOMMENDATION

Staff recommends the **Approval of RZ-18-003** with the following conditions:

1. Remove zoning condition #1.
2. Modify conditions #17 as follows: A minimum of 20,000 sqft of Commercial shall be developed on the property at a future date. No liquor stores, pawn shops, check to cash, billiard halls or nail salons allowed.
3. Modify condition # 8 as follows: Development shall comply with the City of Stonecrest Tree ordinance.
4. Keep conditions # 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, & 16 of CZ-04019.
5. Provide a sight distance profile for the entrances on Covington Highway and on Chupp road.
6. Provide additional right-of-way along the frontage of Covington Highway to provide a minimum of twelve feet (12') from the back of curb.
7. Provide additional right-of-way along the frontage of Chupp Road to provide a minimum of thirty feet (30') from the centerline.



PLANNING COMMISSION STAFF REPORT

PLANNING COMMISSION RECOMMENDATION

1. The Subject Property shall be developed in general conformity with the Zoning Exhibit dated October 9, 2018 (the "Zoning Exhibit") prepared by Southeastern Engineering, Inc. for LDG Development and submitted to the Stonecrest Planning Department on October 9, 2018.
2. The primary entrance to the residential component of the Development shall be located off of Chupp Road. Access points to the non-residential future development shall be located off of Covington Highway and Lithonia Industrial Boulevard in the determined by the Georgia Department of Transportation ("GDOT") and/or the City of Stonecrest. The access point off of Lithonia Industrial Boulevard shall be right in/right out only for all traffic, and shall provide emergency vehicle access to the residential component of the Development, as well as serve as a secondary vehicular exit only for residents. A raised rollover shall be located at the entrance off of Lithonia Industrial Boulevard to discourage left turns onto Lithonia Industrial Boulevard. The driveway from the residential component of the Development shall also contain a sidewalk for pedestrian ingress and egress to the residential component of the Development. Prior to the development of the non-residential improvements along Lithonia Industrial Boulevard, the Developer shall install a gate across the secondary entrance at the nearest point to Lithonia Industrial Boulevard as allowed by the City Engineer, taking into consideration the length of the driveway needed from the public right of way to the emergency vehicle access pad for entrance into the residential component of the Development. The gate may be relocated, if necessary, upon the development of the non-residential improvements.
3. Final site plan to be approved by the Planning Director, which plan shall be consistent with the Zoning Exhibit, subject to modifications required by the City Engineer. **NOTWITHSTANDING THE FOREGOING, THE FINAL SITE PLAN SHALL BE REVIEWED AND APPROVED IN WRITING BY THE COUNCIL MEMBER FOR THE DISTRICT IN WHICH THE PROJECT SITE IS LOCATED PRIOR TO THE ISSUANCE OF THE LAND DEVELOPMENT.**
4. Prior to the issuance of a Land Development Permit, the City of Stonecrest Planning and Development Department shall be provided with a copy of the recorded unified development agreement for the Development.
5. Developer shall provide for at least one recreation area that shall feature a playground and gazebo for resident use.
6. Developer shall provide interior sidewalks/pathways/trails linked to the recreation area(s).
7. Developer shall install sidewalks on both sides of the internal streets of all parcels of the Development.
8. All residential dwelling units shall have a minimum heated square footage of 1050sq. ft. for 2 bedroom and 1200 sq. ft. for 3 bedroom. The total number of residential units shall not exceed 240 units.
9. Dwelling units shall have a minimum of at least 5 different designs and staggered facades.



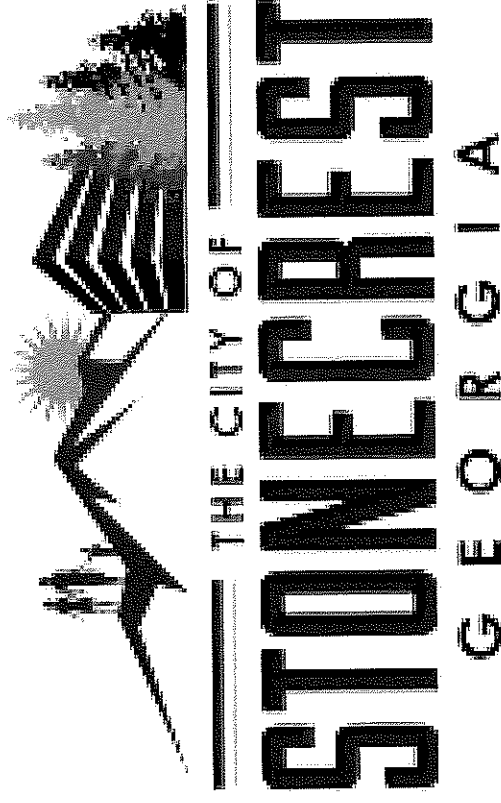
PLANNING COMMISSION STAFF REPORT

10. Developer shall plant at least 1 hardwood shade tree of 8-10 feet in height in the front yard of each dwelling unit prior to issuance of a certificate of occupancy for that dwelling. If planting should occur off season, Developer may enter into escrow arrangements with the City of Stonecrest.
11. Development shall comply with the City of Stonecrest tree ordinance.
12. All dwelling units shall have an attached garage for at least one (1) car OR have parking for 1.5 cars per unit in a common parking area(s).
13. All facades shall consist of brick, stucco, stone, shake shingles, or hardiplank; no vinyl or wood except on eaves, dormers, gables and similar architectural accents.
14. Detention facilities shall be screened from view by a 6-foot fence and evergreen trees and shrubs.
15. All utilities shall be underground.
16. Developer shall provide landscaping and entry treatment for each public road entrance to the Development.
17. Developer shall construct deceleration lanes as required by the City of Stonecrest, and/or by GDOT.
18. The front façade of the commercial buildings in the Development shall consist of brick masonry, stone masonry and/or textured face concrete block. Additionally, a minimum of 50% of the two sides of the building shall consist primarily of brick masonry, stone masonry and/or textured face concrete block.
19. Aluminum security fencing or other screening may be erected around the perimeter of the Development. No wooden fencing shall be allowed.
20. Developer shall extend the sidewalk along Chupp Road to at least one MARTA bus stop and provide a designated area near the front entrance off of Chupp Road for the school bus stop.
21. The unopened portion of Macedonia Road shall not be abandoned.

RZ 18-003

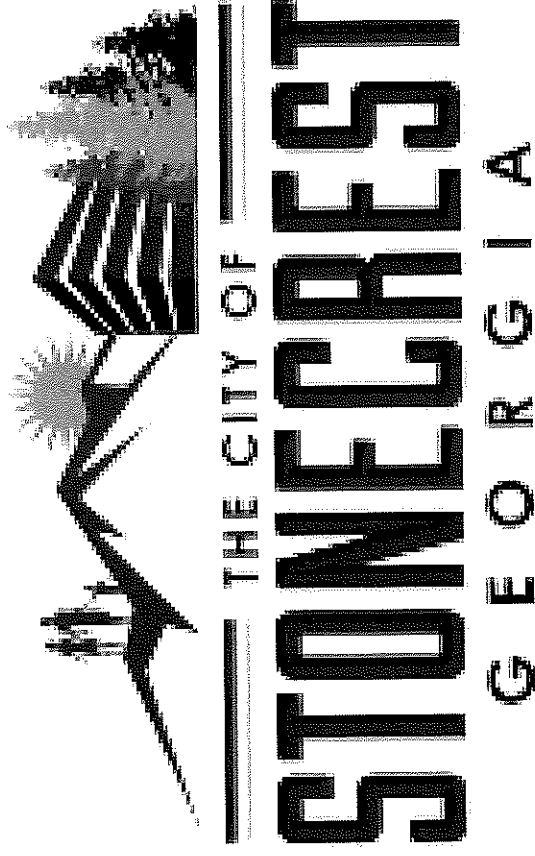
Attachment #2

10/15/18 PowerPoint Presentation



October 9th 2018

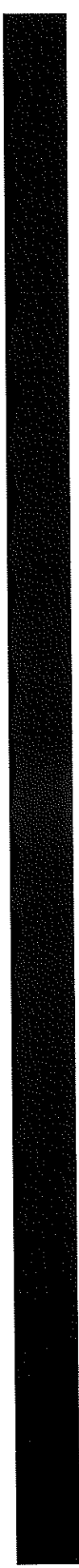
Planning Commission Public Hearing

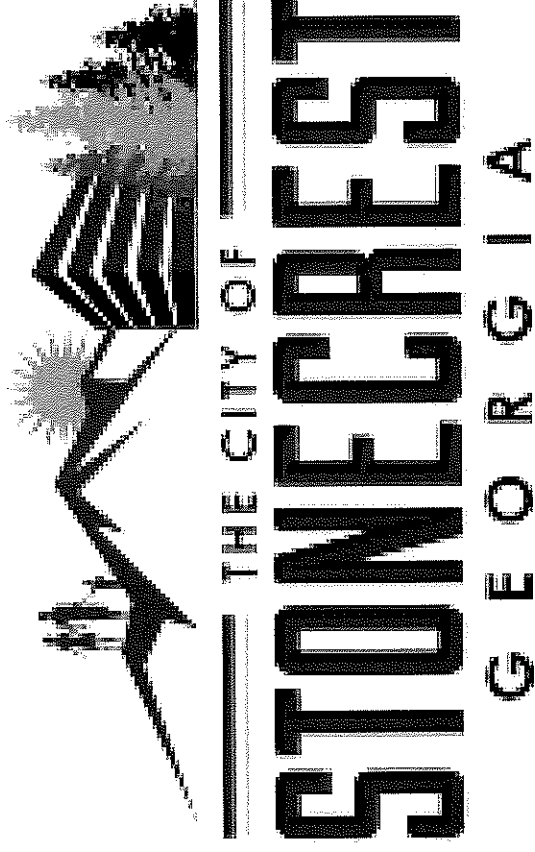


RZ-18-005

7056 Maddox Road

***Administratively Withheld**

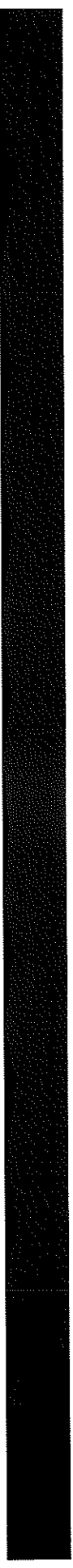




RZ-18-003

**6554 & 6560 Chupp Rd
2616 & 2601 Macedonia Rd
7247 & 7257 Covington Hwy**

Stonecrest GA 30038



Petition Information

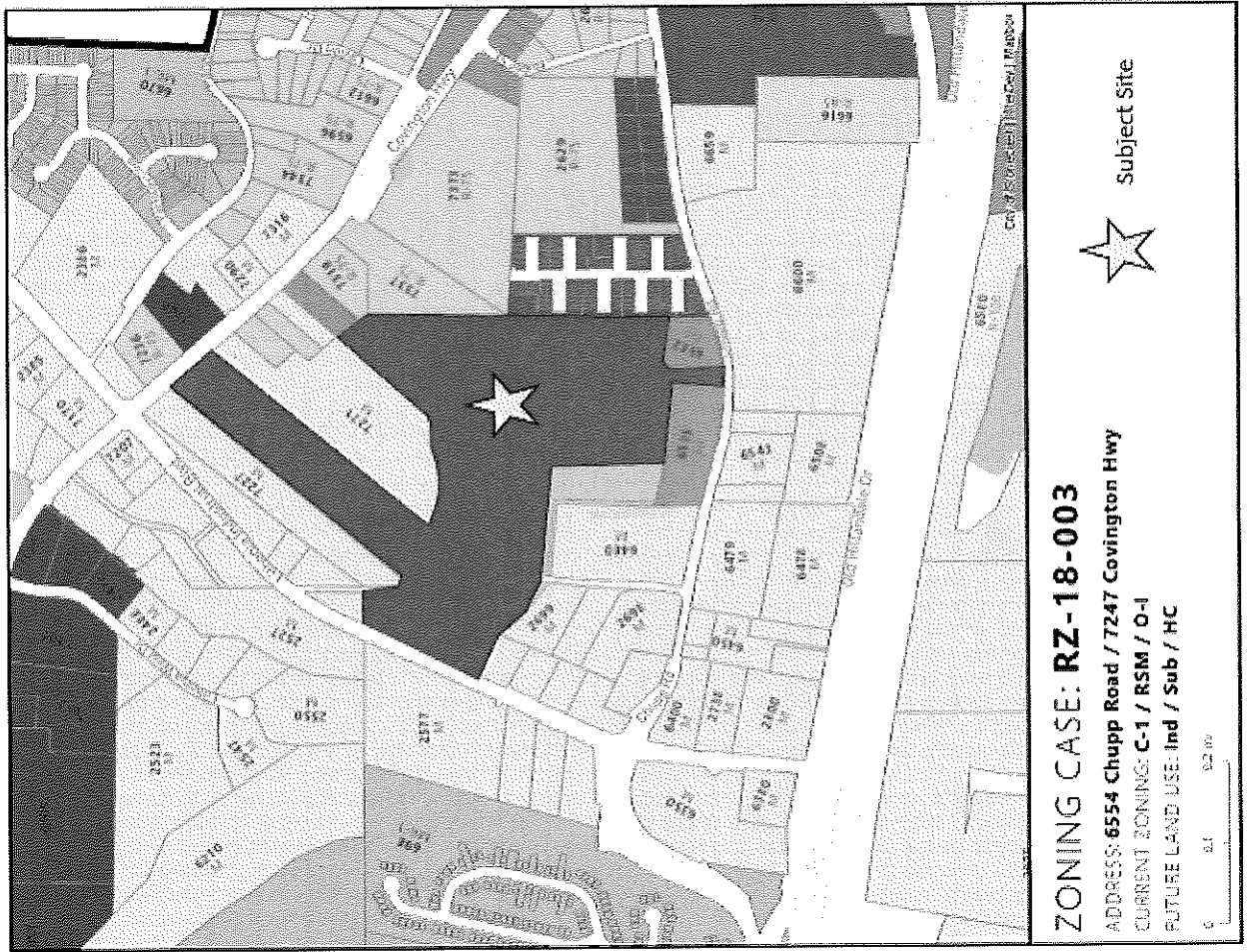
- APPLICANT: LDG Development c/o Battle Law
- LOCATION: 6554 & 6560 Chupp Rd, 2616 & 2601 Macedonia Rd, 7247 & 7257 Covington Hwy
- ACREAGE: 58.216 acres
- REQUEST: The applicant is requesting to change four (4) of eighteen (18) conditions to construct 240 townhomes units with commercial components.

* This application was originally heard at the August 7th 2018 Planning Commission Meeting. The Commission recommended deferral of the application. The application then was heard at August 20th 2018 City Council hearing and was referred back to the Planning Commission.

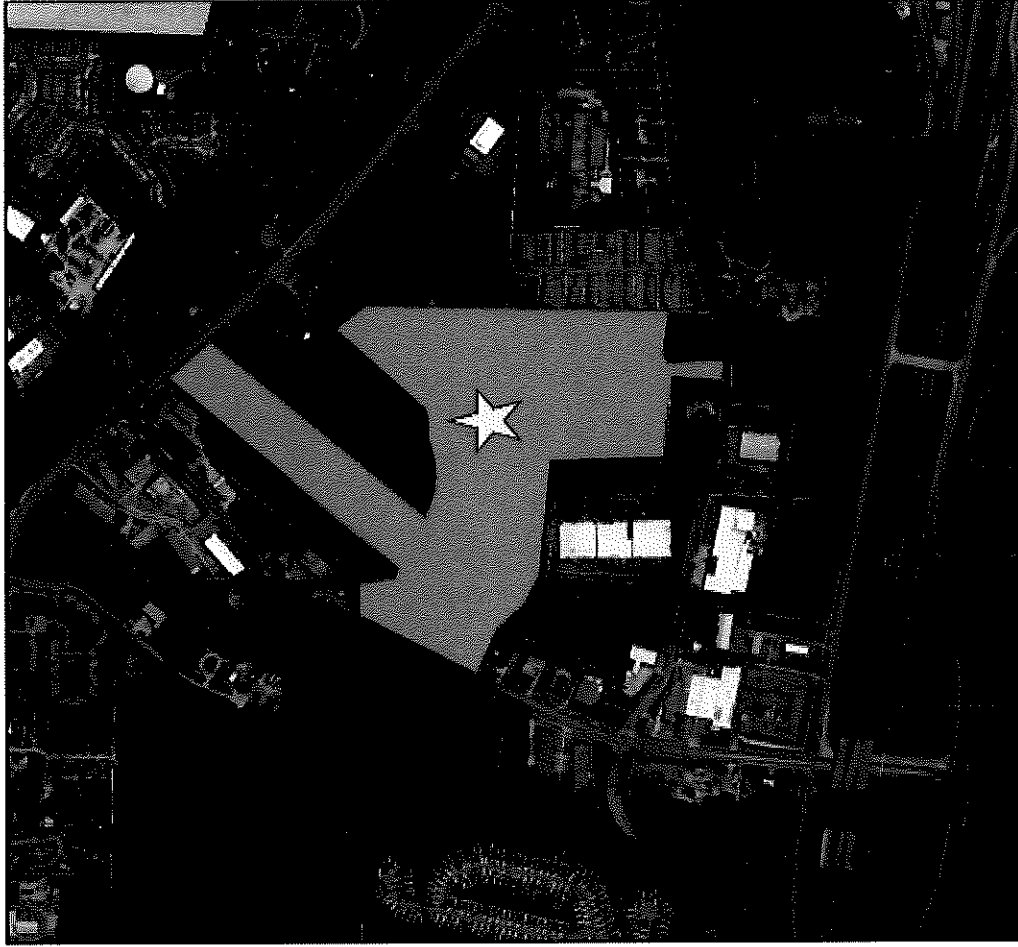
General Information

- Current zoning: C-1 (Local Commercial), O-I (Office- Institutional) and RSM (Residential Medium Lot) District Conditional CZ-04019
- Future Land Use Character Area: Suburban and Industrial.
 - Stonecrest Overlay District Tier 4
- Policies for this area emphasize:
 - Provided appropriate infrastructure support for industrial development in designated industrial areas while protecting the surrounding area from the negative impacts of noise and light pollutants.
 - The proposed development would not alter the established residential development but would be in harmony as intended by the comprehensive plan.
- Surrounding uses: Residential, Commercial, and Industrial.
- Surrounding zoning: MR-2 (Medium Density Residential) District, R-75 (Residential Medium Lot), C-1, O-I (Office- Institutional) and Industrial.

Zoning Map



Aerial Map



ZONING CASE: RZ-18-003

ADDRESS: 6554 Chupp Road / 7247 Covington Hwy

CURRENT ZONING: C-1 / RSM / O-I

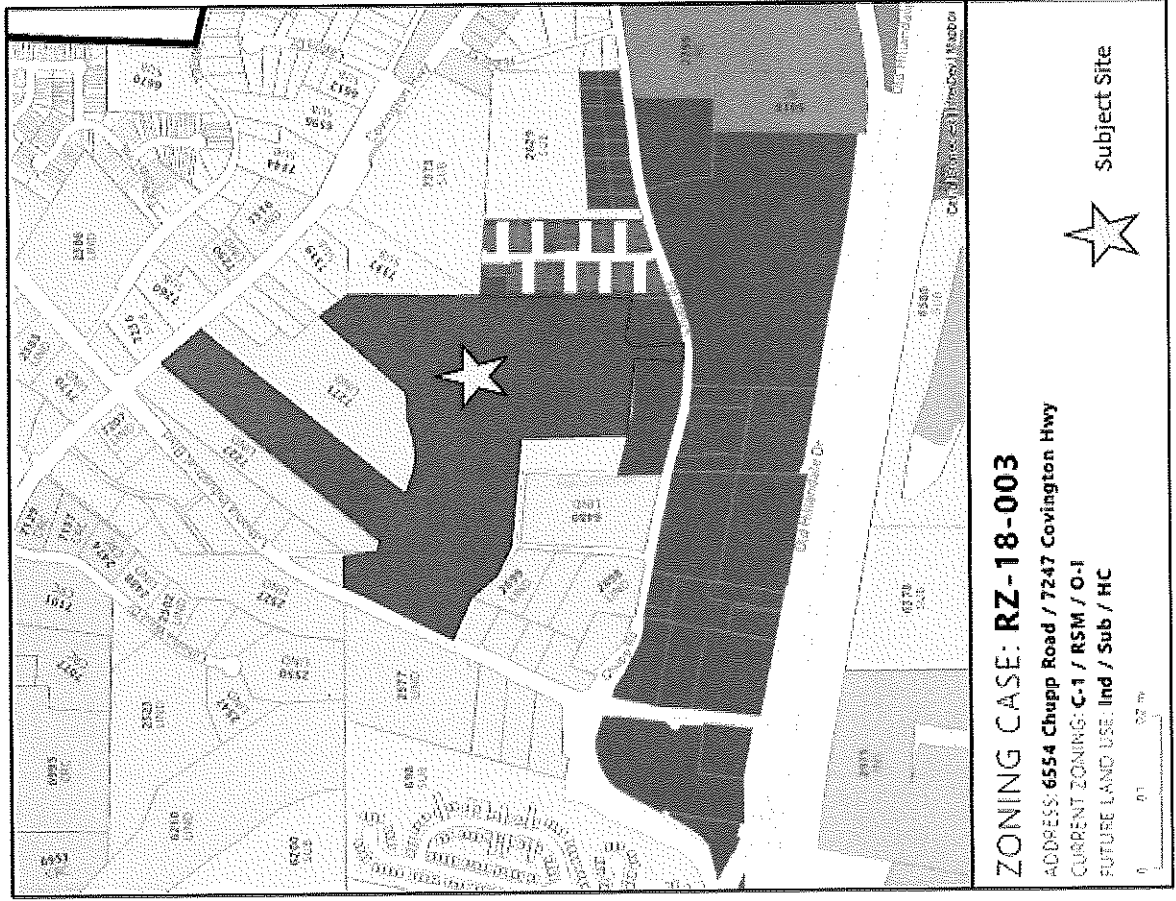
FUTURE LAND USE: Ind / Sub / HC

0 0.1 0.2 mi

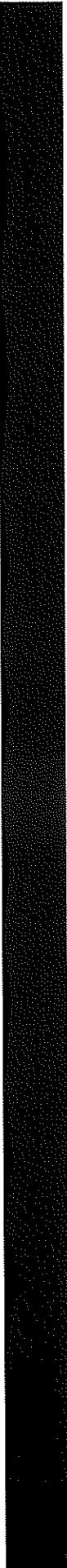
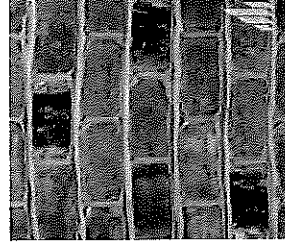
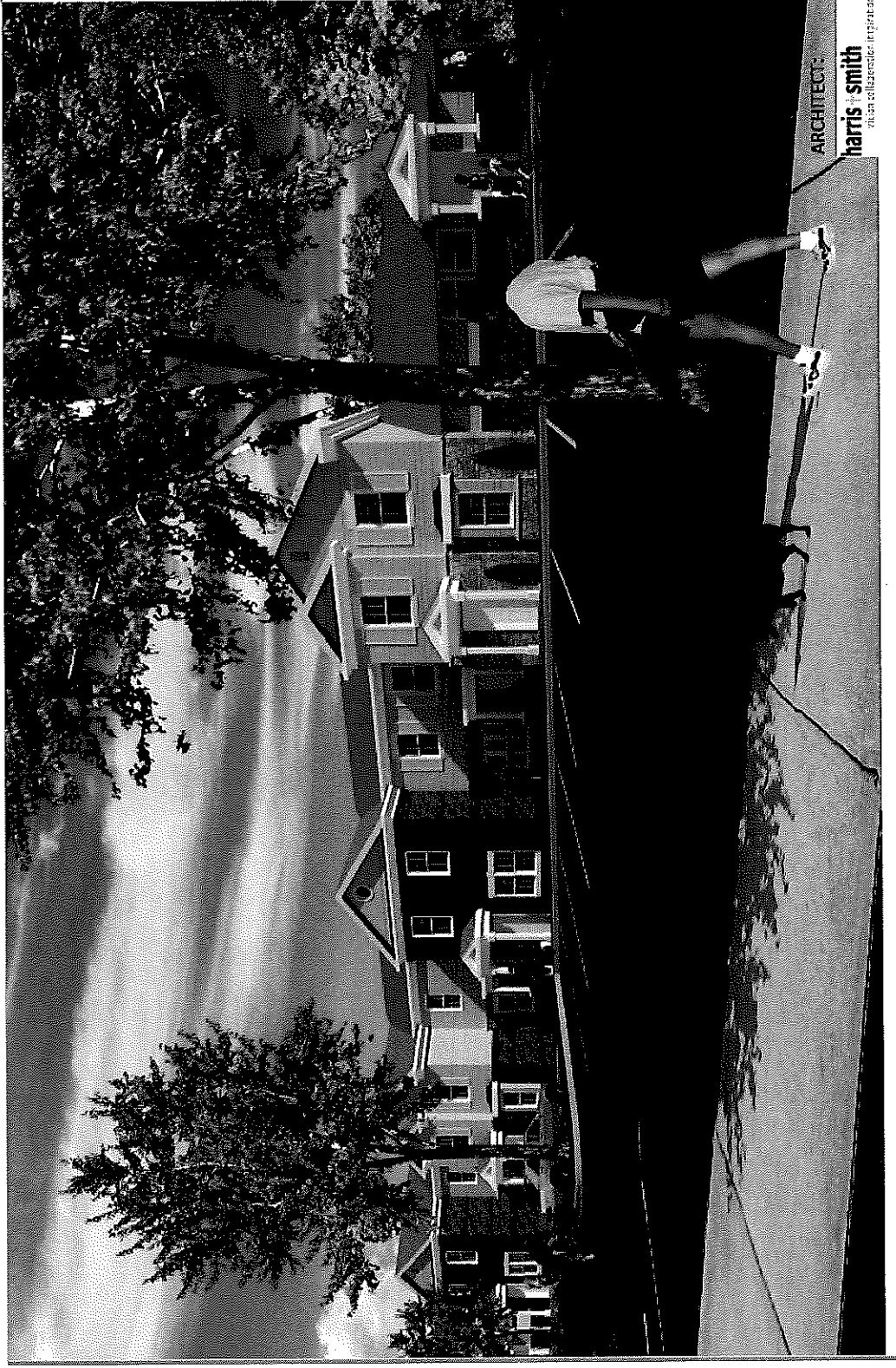


Subject Site

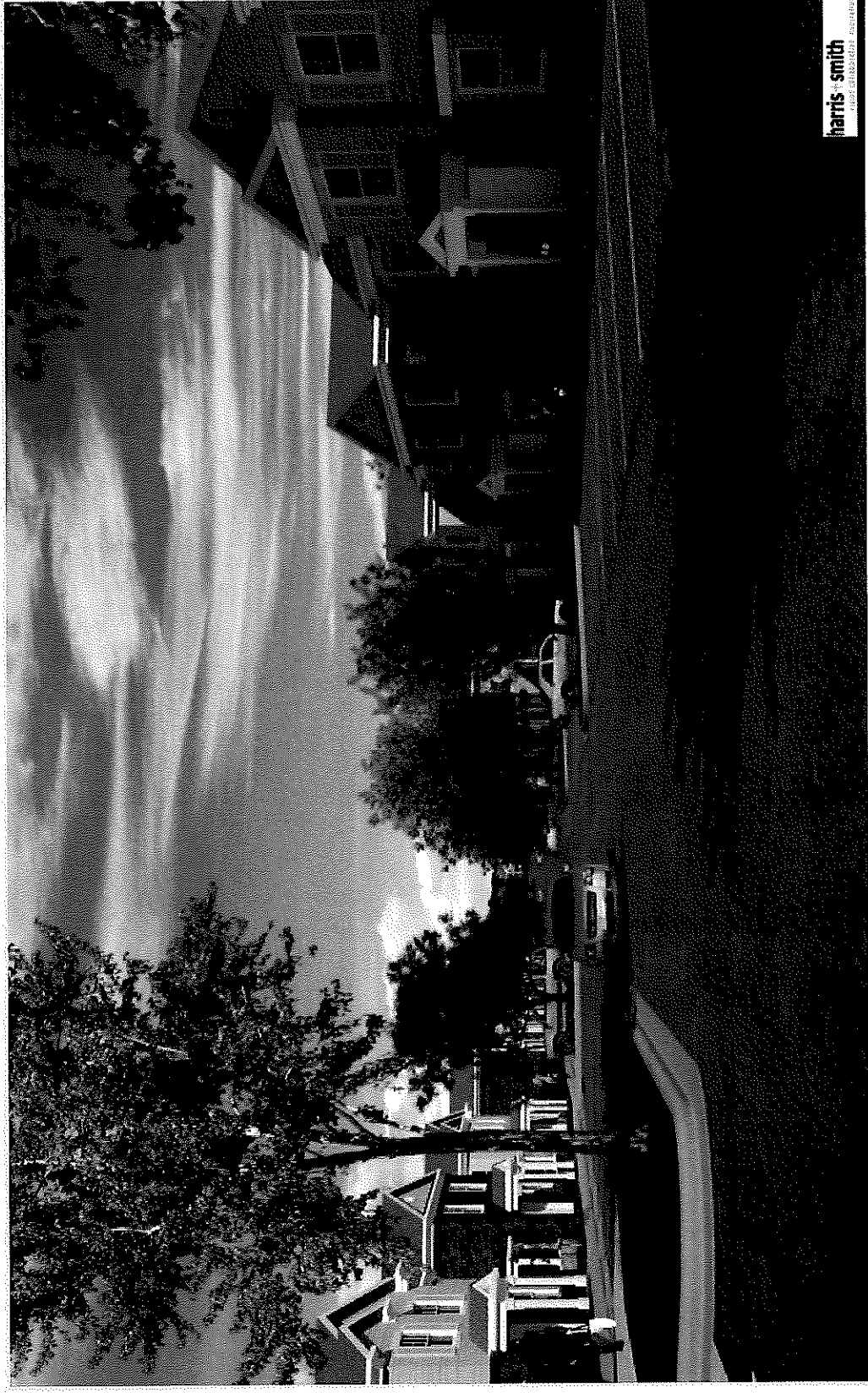
Future Land Use Map



Proposed Elevation and Façade

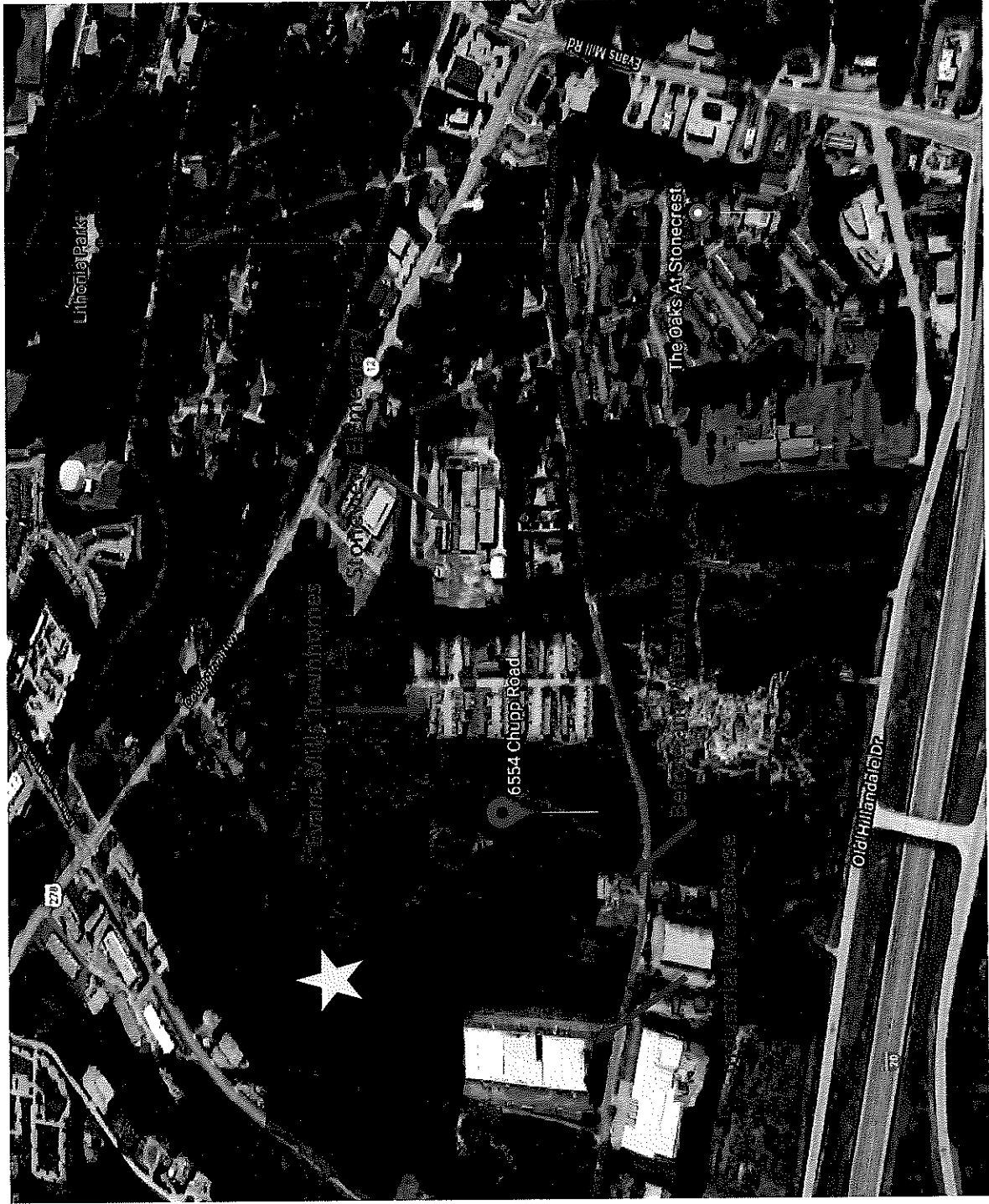


Proposed Elevation and Façade continued



harris smith
ARCHITECTS

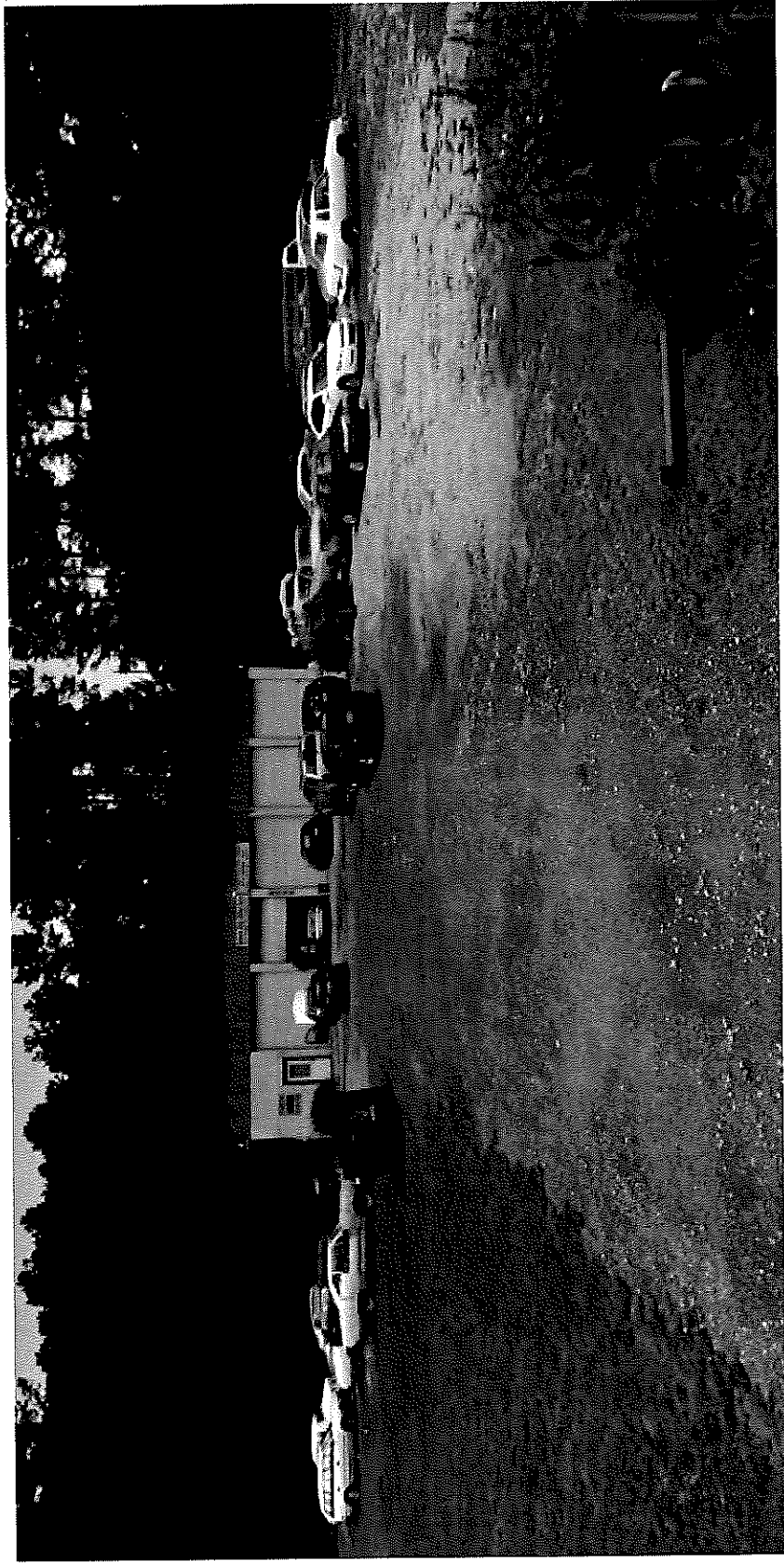
Aerial Map



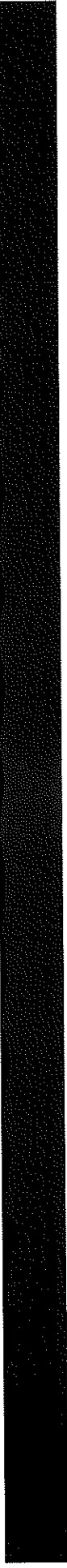
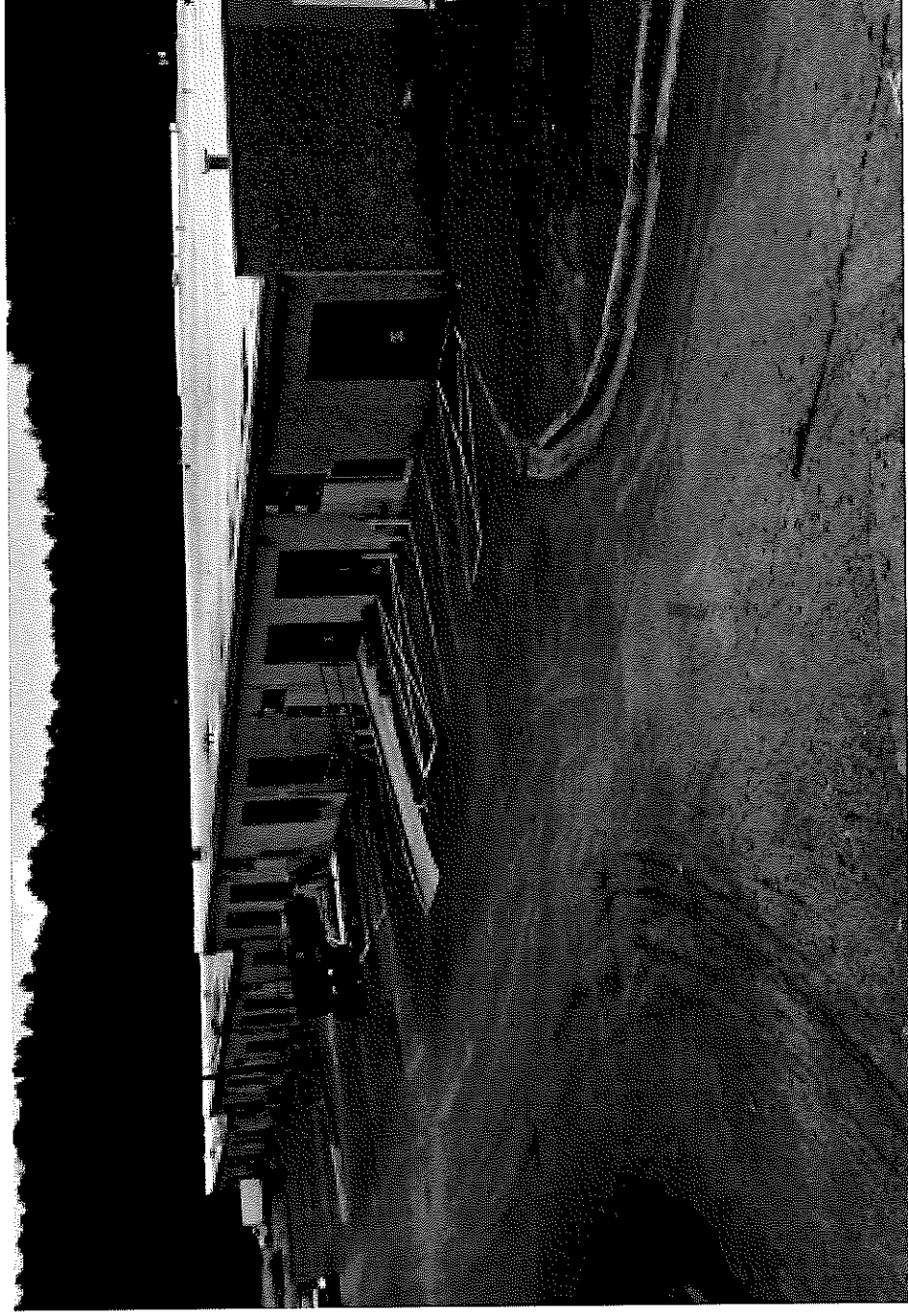
(Evans Mill Townhomes) Property Located to the East of the subject property



**(Before & After Auto) Property located
to the South of the subject property.**



(Industrial Warehouse) Property located to the Southwest of the subject property



Staff Analysis

Staff finds this petition:

- Consistent in use and scale with adjacent and nearby properties.
- The proposed development would not alter the established residential development but would be in harmony as intended by the comprehensive plan.
- The minimum units per acres for RSM is 4 units/acre while the maximum density would be 8 units/acre. The applicant proposed density is 4.57 units per acre which is in harmony with the underlying zoning. The minimum lot area for urban single-family homes is 1,350 square feet while the single family (townhome) is 1,000 square feet. The proposed 1000 square feet of heat floor space is similar to the surrounding residential developments however staff desires a more upscale development with larger heated floor space (1400) with a garage which was originally approved.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends

APPROVAL of this request:

1. Remove zoning condition #1
2. Modify conditions #17 as follows: A minimum of 20,000 sqft of Commercial shall be developed on the C-1 zoned property at a future date. No liquor stores, pawn shops, check cashing, billiard halls or nail salons allowed.
3. Modify condition #8 as follows: Development shall comply with the City of Stonecrest Tree ordinance.
4. Keep conditions # 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, & 16 of CZ-04019.
5. Provide a sight distance profile for the entrances on Covington Highway and on Chupp road.
6. Provide additional right-of-way along the frontage of Covington Highway to provide a minimum of twelve feet (12') from the back of curb.
7. Provide additional right-of-way along the frontage of Chupp Road to provide a minimum of thirty feet (30') from the centerline.

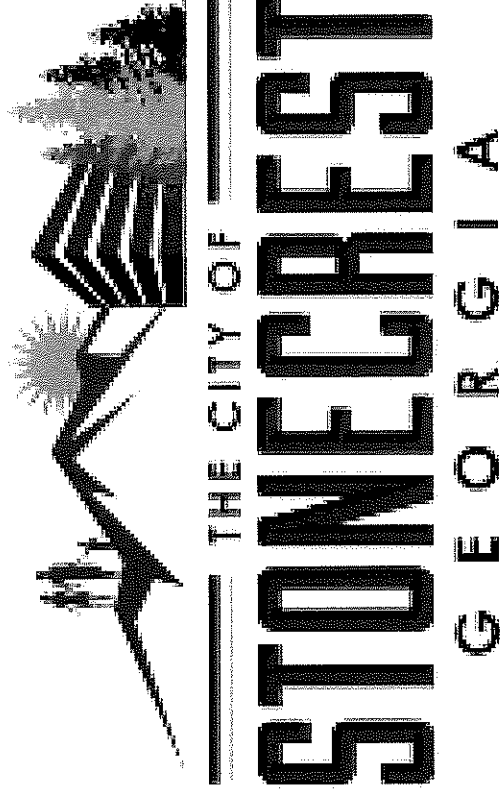
Applicant's proposed conditions

1. The Subject Property shall be developed in general conformity with the Zoning Exhibit dated October 4, 2018 (the "Zoning Exhibit") prepared by Southeastern Engineering, Inc. for LDG Development and submitted to the Stonecrest Planning Department on October 5, 2018.
2. The primary entrance to the residential component of the Development shall be located off of Chupp Road. Access points to the non-residential future development shall be located off of Covington Highway and Lithonia Industrial Boulevard in the determined by the Georgia Department of Transportation ("GDOT") and/or the City of Stonecrest. The access point off of Lithonia Industrial Boulevard shall be right in/right out only for all traffic, and shall provide emergency vehicle access to the residential component of the Development, as well as serve as a secondary vehicular exit only for residents. A raised rollover shall be located at the entrance off of Lithonia Industrial Boulevard to discourage left turns onto Lithonia Industrial Boulevard. The driveway from the residential component of the Development shall also contain a sidewalk for pedestrian ingress and egress to the residential component of the Development. Prior to the development of the non-residential improvements along Lithonia Industrial Boulevard, the Developer shall install a gate across the secondary entrance at the nearest point to Lithonia Industrial Boulevard as allowed by the City Engineer, taking into consideration the length of the driveway needed from the public right of way to the emergency vehicle access pad for entrance into the residential component of the Development. The gate may be relocated, if necessary, upon the development of the non-residential improvements.
3. Final site plan to be approved by the Planning Director, which plan shall be consistent with the Zoning Exhibit, subject to modifications required by the City Engineer.
4. Prior to the issuance of a Land Development Permit, the City of Stonecrest Planning and Development Department shall be provided with a copy of the recorded unified development agreement for the Development.
5. Developer shall provide for at least one recreation area that shall feature a playground and gazebo for resident use.
6. Developer shall provide interior sidewalks/pathways/trails linked to the recreation area(s).
7. Developer shall install sidewalks on both sides of the internal streets of all parcels of the Development.
8. All residential dwelling units shall have a minimum heated square footage of 1050sq. ft. for 2 bedroom and 1200 sq. ft. for 3 bedroom. The total number of residential units shall not exceed 240 units.
9. Dwelling units shall have a minimum of at least 5 different designs and staggered facades.

Applicant's proposed conditions

continued...

10. Developer shall plant at least 1 hardwood shade tree of 8-10 feet in height in the front yard of each dwelling unit prior to issuance of a certificate of occupancy for that dwelling. If planting should occur off season, Developer may enter into escrow arrangements with the City of Stonecrest.
11. Development shall comply with the City of Stonecrest tree ordinance.
12. All dwelling units shall have an attached garage for at least one (1) car OR have parking for 1.5 cars per unit in a common parking area(s).
13. All facades shall consist of brick, stucco, stone, shake shingles, or hardiplank; no vinyl or wood except on eaves, dormers, gables and similar architectural accents.
14. Detention facilities shall be screened from view by a 6-foot fence and evergreen trees and shrubs.
15. All utilities shall be underground.
16. Developer shall provide landscaping and entry treatment for each public road entrance to the Development.
17. Developer shall construct deceleration lanes as required by the City of Stonecrest, and/or by GDOT.
18. The front façade of the commercial buildings in the Development shall consist of brick masonry, stone masonry and/or textured face concrete block. Additionally, a minimum of 50% of the two sides of the building shall consist primarily of brick masonry, stone masonry and/or textured face concrete block.
19. Aluminum security fencing or other screening may be erected around the perimeter of the Development. No wooden fencing shall be allowed.
20. Developer shall extend the sidewalk along Chupp Road to at least one MARTA bus stop and provide a designated area near the front entrance off of Chupp Road for the school bus stop.
21. The unopened portion of Macedonia Road shall not be abandoned.



October 9th, 2018

Planning Commission Public Hearing



CITY COUNCIL AGENDA ITEM

**SUBJECT: Intergovernmental Agreement with DeKalb County and the City of Stonecrest
for the Provision of Election Services**

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

Council Meeting 10/15/18

SUBMITTED BY: Brenda James, City Clerk

PURPOSE: Intergovernmental Agreement with DeKalb County for Election Services

HISTORY: The City Attorney and DeKalb County have been working on this agreement for quite a while. DeKalb County Commissioners have approved and signed the agreement. It is brought to the City of Stonecrest for execution.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Authorize the execution of the Intergovernmental Agreement

**INTERGOVERNMENTAL AGREEMENT
FOR THE PROVISION OF ELECTION SERVICES
BETWEEN
DEKALB COUNTY, GEORGIA and
THE CITY OF STONECREST, GEORGIA**

THIS INTERGOVERNMENTAL AGREEMENT is entered into this _____ day of _____, 2018, between DeKalb County, Georgia ("County"), a political subdivision of the State of Georgia, and the City of Stonecrest, Georgia ("City"), a municipal corporation lying wholly or partially within the County.

WHEREAS, DeKalb County, Georgia is a constitutionally created political subdivision of the State of Georgia; and

WHEREAS, the City of Stonecrest is a municipality created by the 2016 Georgia General Assembly pursuant to Senate Bill 208 (hereinafter referred to as "SB 208"); and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions; and

WHEREAS, both parties are interested in serving the needs of the citizens of the City by the County providing for the services of conducting all elections required and permitted by law; and

WHEREAS, the City desires to contract with the County to conduct all municipal elections for the citizens of the City pursuant to the applicable laws of the State of Georgia; and

WHEREAS, the City and the County are authorized by Art. IX, Sec. III, Par. I of the Constitution of the State of Georgia to enter into such an agreement for the conduct of the City elections; and

WHEREAS, O.C.G.A. § 21-2-45(c) authorizes the governing authority of any municipality to contract with the county within which that municipality wholly or partially lies to conduct any or all elections; and

WHEREAS, pursuant to O.C.G.A. § 21-2-45(c), a city may by ordinance authorize a county to conduct such election(s), and the City has adopted such an ordinance; and

WHEREAS, the DeKalb County Board of Registrations and Elections ("BRE") has jurisdiction over the conduct of primaries and elections and the registration of electors in the County; and

WHEREAS, the BRE, among other things, is responsible for the selection and appointment of the elections supervisor and the selection, appointment, and training of poll workers in elections;

NOW THEREFORE, in consideration of the following mutual obligations, the County and City agree as follows:

**ARTICLE 1
CONDUCT OF ELECTIONS**

1.1 This Agreement will govern the conduct of any and all elections (hereinafter referred to as "City Election") which the City requests the County to conduct, including any and all runoffs which may be necessary. It is the intent of the parties that City Elections be conducted in compliance with all applicable federal, state and local legal requirements.

1.2 For each City Election, City, at its sole option, shall submit to County a request in the form attached hereto as Exhibit A. Requests must be made in conformance with O.C.G.A § 21-2-540, now and as it may be amended hereafter, to the address specified in the Notice Section below. If a timely request is not made, the County shall have no obligation to conduct the City Election which was the subject of the request.

1.3 In the event any Special City Election becomes necessary, the City and the County shall confer and determine a mutually convenient date as allowed by law to conduct any such election.

**ARTICLE 2
TERM OF AGREEMENT**

This Agreement shall commence on the date that it is executed by or on behalf of the governing authority of DeKalb County, Georgia, will renew on an annual basis, and will terminate on December 31, 2067, unless otherwise terminated as set forth herein.

**ARTICLE 3
DUTIES AND RESPONSIBILITIES**

Pursuant to this Agreement, each party shall provide the following enumerated services:

3.1 Upon receipt of request to perform a City Election, the BRE and/or the County Election Supervisor, or their designee(s) shall be responsible for:

- a) Designating early and advance voting sites and hours;
- b) Placing the City's candidate(s) on the electronic and printed ballots for City Elections after qualifying;
- c) Placing the City's referendum question(s) on the ballot for a City Election after timely written notice from the City is received by the County (which such notice shall include all necessary details and information);
- d) Hiring, training, supervising and paying poll officers and absentee ballot clerks;
- e) Preparing and submitting to the City Clerk, as required by state law O.C.G.A. § 21-2-224(e), now and as it may be amended hereafter, a list of electors.

- f) Performing duties of election superintendent/supervisor, and absentee ballot clerk for City Elections;
- g) Performing logic and accuracy testing as required by Sections 183-1-12-.02 and .07 of the Official Compilation of Rules and Regulations of the State of Georgia, now and as they may be hereafter amended;
- h) Providing staff, equipment and supplies for conducting City Elections at City polling places on City Election days and for conducting recounts as may be required;
- i) Certifying City Election returns as required by state law O.C.G.A. § 21-2-493, now and as it may be amended hereafter, and submitting certified City Election returns to the Georgia Secretary of State and City Clerk or as otherwise directed;
- j) Upon a change in City precincts or voter districts, notifying City residents of any change in voting districts and/or municipal precincts; and
- k) Preparing and submitting timely requests, as necessary, for Preclearance of voting precinct changes to the Department of Justice, Civil Rights Division under Section V of the Voting Rights Act of 1965.

3.2 The City shall be responsible for:

- a) Adopting Election Resolutions pursuant to O.C.G.A. § 21-2-45(c), now and as it may be amended hereafter, and Calls for Special City Elections (“the Calls”) as required by O.C.G.A. § 21-2-540, now and as it may be amended hereafter;
- b) Submitting Preclearance requests, as necessary, to the Department of Justice, Civil Rights Division under Section V of the Voting Rights Act of 1965, including, but not limited to the submission of a request to allow for district changes or Calls for Special City Elections;
- c) Preparing qualifying materials for potential candidates and performing qualifying of candidates, including any write-ins, for City Elections as required by state law, specifically O.C.G.A. § 21-2-130 *et seq.*, now and as it may be amended hereafter;
- d) Placing advertisements in the City’s legal organ regarding Calls, as required by state law O.C.G.A. § 21-2-540, now and as it may be amended hereafter;
- e) Fixing and publishing the qualifying fee as required by state law under O.C.G.A. § 21-2-131, now and as it may be amended hereafter;

- f) Collecting and retaining the qualifying fee as required by state law O.C.G.A. § 21-2-131, now and as it may be amended hereafter;
- g) Performing filing officer duties as required by the Government Transparency and Campaign Finance Commission for any and all state reports filed by the candidates or committees in conjunction with City Elections to ensure compliance with Title 21, Chapter 5 of the Official Code of Georgia;
- h) Verifying, in a timely manner, accuracy of voter list(s) for City residents;
- i) Providing the County with a detailed map showing the City's Municipal Boundaries and Voting District Boundaries;
- j) For all aspects related to the issuance of bonds by the City, except for City referendum election duties specifically requested of the County as provided herein;
- k) Notifying the County immediately of the need for a Special City Election including election races and/or ballot referendum questions;
- l) Providing the County with an electronic copy of referendums that must be placed on a ballot;
- m) Providing the County, via electronic mail or facsimile, affidavits and listing of candidates immediately after close of qualifying;
- n) Reviewing ballot proofs and notifying County of corrections or approval within twenty-four (24) hours of receiving proofs for candidate listings; and
- o) Otherwise cooperating with the County in the performance of this Agreement and providing the County such documentation and information as it may reasonably request to facilitate the performance of its duties under this Agreement.

ARTICLE 4 COMPENSATION AND CONSIDERATION

Pursuant to this Agreement and O.C.G.A. § 21-2-2-45(c) now and as it may be amended hereafter, the City shall pay to the County all costs incurred in performing the functions agreed upon herein. City agrees to pay County the actual costs incurred by County in conducting City Elections as stated on the County's invoice. City shall remit said funds to County within thirty (30) days of receipt of invoice.

ARTICLE 5 LEGAL RESPONSIBILITIES

5.1 The City shall be solely responsible for any liability resulting from any claims or litigation arising from or pertaining to any City Election, except claims or litigation regarding the acts of agents or employees of the County, the County Board of Registrations and Elections, and/or the County Election Supervisor in connection with any City Election held pursuant to this Agreement. The City agrees to reimburse the County for all costs, including, but not limited to, court costs and attorney fees for the County Attorney or outside counsel, incurred by the County as a result of any such claim or litigation, except claims or litigation regarding the acts of agents or employees of the County, the County Board of Registrations and Elections, and/or the County Election Supervisor in connection with any City Election held pursuant to this Agreement. The City shall make payment of such reimbursements to the County within thirty (30) days of receipt of any invoice for reimbursement from the County.

5.2 In the event that a City Election is contested, the City shall be solely responsible for any liability resulting from any claims or litigation arising from or pertaining to any contested City Election, except claims or litigation regarding the acts of agents or employees of the County, the County Board of Registrations and Elections, and/or the County Election Supervisor in connection with any City Election held pursuant to this Agreement. The City agrees to reimburse the County for all costs incurred in responding to the election challenge, including, but not limited to, attorney's fees for the County Attorney or outside counsel and all expenses associated with the election challenge and any appeals thereafter, except claims or litigation regarding the acts of agents or employees of the County, the County Board of Registrations and Elections, and/or the County Election Supervisor in connection with any City Election held pursuant to this Agreement. The City shall make payment of such reimbursements to the County within thirty (30) days of receipt of any invoice for reimbursement from the County. If a second election is required, such election will constitute a City Election under this Agreement and shall be conducted in accordance with the terms of this Agreement.

5.3 It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law.

5.4 Should it be necessary to comply with legal requirements that any of the County's personnel shall be sworn in as a temporary officer or employee of the City, such formality shall be observed without limitation.

ARTICLE 6 EMPLOYMENT STATUS

6.1 All County personnel assigned under this Agreement are and will continue to be employees of the County for all purposes, including, but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

6.2 All County personnel assigned under this Agreement are and will continue to be part of the DeKalb County Voter Registrations and Elections and under the supervision of the Elections Supervisor.

6.3 All City personnel assigned under this Agreement are and will continue to be employees of the City.

ARTICLE 7 RECORDKEEPING AND REPORTING

7.1 The County Voter Registrations and Elections Department is the central repository for all departmental records and makes available public records as defined and required by the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et seq.*, O.C.G.A. § 21-2-51 and O.C.G.A. § 21-2-72, now and as they may be amended hereafter. During the term of this Agreement, the County will continue to comply with the applicable provisions of the Georgia Open Records Act and the Georgia Election Code.

7.2 Except as limited by any provision of state or federal law, the City may request, review and access data and County records at a mutually agreed upon time to ensure compliance with this Agreement.

ARTICLE 8 TERMINATION AND REMEDIES

Either party may unilaterally terminate this Agreement, in whole or in part, for any reason whatsoever by notice in writing to the other party delivered at least one hundred twenty (120) days prior to the effective date of the termination.

ARTICLE 9 NOTICES

All required notices shall be given by certified first class U.S. Mail, return receipt requested. The parties agree to give each other non-binding duplicate facsimile notice. Future changes in address shall be effective upon written notice being given by the City to the County Elections Supervisor or by the County to the City Manager via certified first class U.S. mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

If to the County: Director, DeKalb County Registrations and Elections
 4380 Memorial Drive, Ste. 300
 Decatur, Georgia 30032
 (404) 298-4038 (facsimile)

With a copy to: County Attorney
 1300 Commerce Drive, 5th Floor
 Decatur, Georgia 30030
 (404) 371-3024 (facsimile)

August 31, 2018

If to the City: City Manager
City of Stonecrest
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038
(470) 299-4214 (facsimile)

With a copy to: City Attorney
City of Stonecrest
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038
(470) 299-4214 (facsimile)

With a copy to: Thompson Kurrie, Jr.
City Attorney
City of Stonecrest
3475 Lenox Road, NE, Ste. 400
Atlanta, Georgia 30326
(770) 689-9729 (facsimile)

ARTICLE 10 NON-ASSIGNABILITY

Neither party shall assign any of the obligations or benefits of this Agreement.

ARTICLE 11 ENTIRE AGREEMENT

The parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and Agreement of the parties regarding the subject matter of the Agreement. This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement, and supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon the City or the County. All parties must sign any subsequent changes in the Agreement.

ARTICLE 12 SEVERABILITY, VENUE AND ENFORCEABILITY

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any party institute suit concerning this Agreement, venue shall be in

the Superior Court of DeKalb County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

**ARTICLE 13
BINDING EFFECT**

This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors.

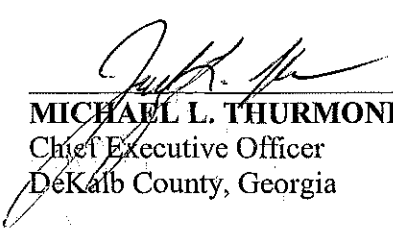
**ARTICLE 14
COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

[SIGNATURE PAGES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the City and County have executed this Agreement through their duly authorized officers on the day and year first above written.

DEKALB COUNTY, GEORGIA

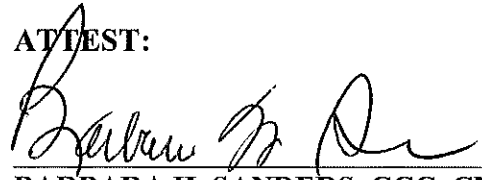


MICHAEL L. THURMOND

Chief Executive Officer
DeKalb County, Georgia

by Dir (SEAL)

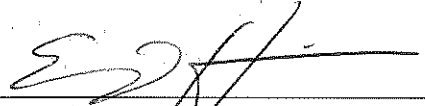
ATTEST:



BARBARA H. SANDERS, CCC, CMC

Clerk of the Chief Executive Officer
and Board of Commissioners of
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:



ERICA HAMILTON

Director / Supervisor
DeKalb County Board of
Registrations and Elections

APPROVED AS TO FORM:



MARIAN C. ADEIMY

Assistant County Attorney

CITY OF STONECREST, GEORGIA

JASON LARY, SR.

Mayor

(SEAL)

ATTEST:

BRENDA JAMES

Municipal Clerk

APPROVED AS TO SUBSTANCE:

THOMPSON KURRIE, JR.

City Attorney

EXHIBIT A

As per the Agreement executed on _____, THE CITY OF STONECREST hereby requests that DeKalb County conduct its _____ Election on _____. The last day to register to vote in this election is _____. The absentee poll will be located at 4380 Memorial Drive, Decatur, Georgia, 30032.

This _____ day of _____, 20____.

Municipal Clerk (SEAL)

The DeKalb County Board of Registrations and Elections agrees to conduct the CITY OF STONECREST _____ Election on _____.

This _____ day of _____, 20____.

Elections Supervisor
DeKalb County Board of
Registrations and Elections (SEAL)



CITY COUNCIL AGENDA ITEM

SUBJECT: Authorize Correction of Term End Date of Intergovernmental Agreement for Fire Rescue Services between DeKalb County and City of Stonecrest

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

Date Submitted: 09/28/2018

Council Meeting: 10/15/2018

SUBMITTED BY: City Manager

PURPOSE: This is to authorize the term end date of the Intergovernmental Agreement between DeKalb County and the City of Stonecrest for Fire Rescue Services to January 1, 2069.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

September 27, 2018

**INTERGOVERNMENTAL AGREEMENT
FOR THE PROVISION OF FIRE RESCUE SERVICES
BETWEEN
DEKALB COUNTY, GEORGIA and
THE CITY OF STONECREST, GEORGIA**

THIS INTERGOVERNMENTAL AGREEMENT, is entered into by and between DeKalb County, Georgia ("County") and the City of Stonecrest, Georgia ("City").

WHEREAS, DeKalb County, Georgia is a constitutionally created political subdivision of the State of Georgia; and

WHEREAS, the City of Stonecrest is a municipality created by the 2016 Georgia General Assembly pursuant to Senate Bill 208 (hereinafter referred to as "SB 208"); and

WHEREAS, the County and City desire to enter into an Intergovernmental Agreement for the County to provide fire rescue services within the boundaries of Stonecrest; and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions.

NOW THEREFORE, in consideration of the following mutual obligations, the County and City agree as follows:

**ARTICLE 1
PURPOSE AND INTENT**

The purpose of this Agreement is to provide fire rescue services within the City.

**ARTICLE 2
DEFINITIONS**

For the purposes of the Agreement, the following terms shall be defined as:

2.1 **"Fire Chief"** means the director of the DeKalb County Fire and Rescue department or designee.

2.2 **"Fire Code"** means (1) those applicable provisions of state law related to fire rescue services, including the state fire safety rules, the International Fire Code and (2) those applicable provisions of the Code of DeKalb County, Georgia related to fire rescue services including but not limited to Chapter 12 of the Code of DeKalb County, Georgia and (3) those applicable provisions of the Ordinances of the City of Stonecrest, Georgia that may be enacted during the term of this Agreement related to fire rescue services.

2.2 **"Fire prevention tax district"** means the area of land in DeKalb County, Georgia that has been designated as the fire prevention tax district in which the County imposes

and collects from the taxpayers in the district a separate fire tax for the purpose of defraying the cost of the County fire rescue services provided to the taxpayers in the district.

2.3 **"Fire Rescue Services"** means fire suppression, community risk reduction, fire protection, disaster mitigation, rescue, hazardous material response and emergency medical service transports service provided by County Fire and Rescue Department personnel.

ARTICLE 3 TERM OF AGREEMENT

The term of the Agreement is for the current calendar year, commencing at 0000 hours on January 1, 2019. This Agreement shall automatically renew without further action by the City or County on January 1st of each succeeding year for a total of fifty (50) years concluding at 2400 hours on January 1, 2069 unless previously terminated in accordance with the termination provisions of this Agreement. At the conclusion of this term, the City will be solely responsible for providing all Fire Rescue Services within its boundaries unless extended by mutual agreement by both governing bodies.

ARTICLE 4 COMPENSATION AND CONSIDERATION

4.1 For the Fire Rescue Services to be rendered during the term of this Agreement, the City agrees that the County shall remain entitled to impose and collect the special service tax district and fire prevention district tax annually in the same manner and at the same rate that such tax is imposed and collected within the portion of the DeKalb fire prevention tax district that is located in unincorporated portions of DeKalb County. The City agrees to remain within the DeKalb fire prevention tax district, and nothing in this Agreement shall preclude the County's right to continue to collect DeKalb fire prevention district taxes from the residents of the City for all Fire Rescue Services originating within the City of Stonecrest.

4.2 The City agrees that the County remains entitled to impose, collect and retain all ambulance transport fees. Ambulance transport fees charged shall be equal to those imposed upon residents of unincorporated DeKalb County, whether in effect at the time of this Agreement or approved by the DeKalb County Governing Authority at some future date. Nothing in this Agreement shall preclude the County's right to continue to collect such fees for ambulance transport calls originating from within the City of Stonecrest.

ARTICLE 5 FIRE CHIEF

The Fire Chief will direct and manage the daily fire rescue operations in the City and supervise the delivery of Fire Rescue Services contracted for in this Agreement.

ARTICLE 6 SERVICES

6.1 During the term of this Agreement, the County shall provide the same Fire Rescue Services to the City as are provided in unincorporated area of DeKalb County. Such Fire Rescue Services shall equal or exceed the Fire Rescue Services provided by the County in 2018 within the area that comprises the City. The County shall provide Fire Rescue Services on a continual 24-hour per day basis. The County and the City intend to enter into mutual aid agreements, which shall govern the parties in case of emergencies requiring assistance from neighboring fire departments.

6.2 Response times in the City shall remain consistent with those response times in unincorporated DeKalb County. County-wide response reports will be provided by the Fire Chief if requested by the City Manager.

6.3 All emergency incidents within the City shall operate under the National Response Plan (NRP) utilizing the National Incident Management System (NIMS). During the term of this Agreement, the City agrees that it will not adopt any ordinance that in any way amends, repeals or replaces the applicable fire rescue provisions of the Code of DeKalb County, Georgia, including but not limited to Chapter 12 of the Code of DeKalb County, Georgia and any amendments thereto without the written consent of the Fire Chief. Such consent shall not be unreasonably withheld.

ARTICLE 7 EQUIPMENT

The County agrees to provide DeKalb County Fire and Rescue personnel assigned to work within the City with all necessary equipment and motor vehicles in connection with this Agreement in order to perform the agreed upon Fire Rescue Services, in accordance with DeKalb County Fire and Rescue Department policies and procedures. The County agrees to maintain said equipment and vehicles and to provide replacements as necessary during the term of the Agreement. All DeKalb County Fire and Rescue officers assigned hereunder shall wear the uniform and insignia as issued and ordered by the DeKalb County Fire and Rescue Department.

ARTICLE 8 AUTHORITY TO ENFORCE THE LAW IN STONECREST

8.1 The Fire Chief shall designate the fire rescue officers to be sworn in and take an oath administered by an official authorized by the City of Stonecrest to administer oaths, as prescribed by O.C.G.A. §§ 45-3-1 and 45-3-10.1 prior to undertaking fire rescue duties pursuant to this Agreement to enforce the Fire Code.

8.2 Every fire and rescue officer of the County assigned to the City shall still be deemed to be a sworn officer of the County while performing the services, duties and responsibilities hereunder and is vested with all other powers of the County that are necessary to provide the Fire Rescue Services within the scope of this Agreement.

8.3 The Fire Chief shall be and hereby is vested with the additional power to enforce the Fire Code, to make arrests or issue citations incident to the enforcement of the Fire Code, and to perform other tasks as are reasonable and necessary in the exercise of their powers. This vesting of additional powers to enforce the Fire Code is made for the sole and limited purpose of giving official and lawful status to the performance of Fire Rescue Services provided by fire and rescue officers within the City of Stonecrest.

8.4 Fire and Rescue officers shall enforce the Fire Code and shall appear in the Municipal Court of the City of Stonecrest as necessary to prosecute cases made therein. The City further agrees to provide, at its own expense, citation books containing the printed Municipal Court information to the fire rescue officers working within the City.

ARTICLE 9 EMPLOYMENT STATUS

All County Fire and Rescue Department personnel operating in the City, as well as any other County personnel operating under this Agreement are and will continue to be employees of the County for all purposes, including but not limited to duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions. All County Fire and Rescue Department personnel operating in the City as well as any other sworn personnel assigned under this Agreement are and will continue to be part of the DeKalb County Fire and Rescue Department command structure. Fire and rescue personnel are under the supervision of the DeKalb County Fire Chief.

ARTICLE 10 FIRE INSPECTION AND PREVENTION

10.1 Until the City has notified the County that the City will provide fire marshal services, the County shall also provide fire inspection and prevention services which include, but are not limited to, the following:

- a. Review of all interior finished, new structures, additions and renovation of all commercial buildings and multi-family buildings, whether existing or to be constructed in the City;
- b. Reviewing plans for both new construction and renovations of existing structures;
- c. Final inspections for all commercial and multi-family buildings;
- d. Inspections for business licenses or change of occupancy;
- e. Inspections required for setting occupancy loads;
- f. Enforcement of fire lane and handicap parking regulations; and
- g. Enforcement of the Fire Code.

10.2 The County shall be entitled to collect the plan review, permit and inspection fees in connection with commercial and multi-family buildings constructed or renovated in the City if such structures or plans are reviewed or inspected by the Fire and Rescue Department. Fees charged shall be equal to those imposed upon residents of unincorporated DeKalb County for similar permits, inspections and plan reviews, whether in effect at the time of this Agreement or as approved by the DeKalb County Governing Authority at some future date.

10.3 Construction plans and accompanying documents for all buildings subject to the provisions of this Agreement shall be submitted to the Fire Chief. Interior finish work and minor building additions may make use of the Fire and Rescue department "walk through" process.

10.4 Until the City has notified the County that the City will be providing "fire marshal services", following completion of final inspection of commercial and multi-family buildings by the Fire Chief:

- a. The City shall not issue any Certificate of Occupancy without the express written approval of the Fire Chief.
- b. The City shall issue the Certificate of Occupancy when the City is satisfied that the project has complied with all City requirements.
- c. The City shall be responsible for notifying utilities companies in connection with the issuance of Certificates of Occupancy.
- d. The issuance of the Certificate of Occupancy by the City shall in no way obligate the City to make any plan review or inspections of the building, and it is specifically agreed that the City shall have the right to rely upon the plan review and inspections performed by the Fire Chief.

10.5 Retaining walls, tents, signs, greenhouses, satellite dishes, Christmas tree lots, emission inspections stations, and similar projects or structures shall not be subject to the provisions of this Agreement, and the City shall continue to issue permits and/or approvals for such projects.

10.6 Both the City personnel and the County Fire and Rescue officers are authorized to issue citations for violations of the Fire Code.

10.7 The City shall be responsible for inspections of all erosion control and site work on all projects within the City.

10.8 The City shall be responsible for enforcement of building code requirements and shall issue all citations necessary to prosecute any building code violations in the Municipal Court of Stonecrest.

ARTICLE 11 RECORDKEEPING AND REPORTING

The County Fire and Rescue Department is the central repository for all departmental records and makes available public records as defined by the Georgia Open Records Act, O.C.G.A. 50-18-70, *et seq.* During the term of this Agreement, the County will continue to maintain all reports relating to Fire and Rescue Department activity within the City. Except as limited by any provision of state or federal law, the City may request, review and access data and County records at a mutually agreed upon time to ensure compliance with this Agreement.

ARTICLE 12
CITY — COUNTY RELATIONS

The DeKalb County Fire Chief will notify the City Manager in the event of a significant fire rescue emergency situation within the City. The DeKalb County Fire Chief and City Manager shall designate what they consider “significant” by a written memorandum. The County shall be the sole provider of services within the City that require sworn fire rescue personnel during the term of this Agreement.

ARTICLE 13
TRANSITION

The County and City agree that twenty-four (24) months prior to the end date of this Agreement, the City Manager and Executive Assistant will meet and confer to effect a smooth transition.

ARTICLE 14
TERMINATION AND REMEDIES

14.1 The City may terminate this Agreement with or without cause by giving twenty-four (24) months prior written notice to the County. If the City intends to terminate this Agreement for cause, the City must notify the County in writing, specifying the cause, extent and effective date of the termination. The County shall have thirty three (33) days after the date of the written notice from the City to cure the stated cause for termination.

14.2 The County may terminate this Agreement for cause by giving twenty-four (24) months prior written notice to the City. If the County intends to terminate this Agreement for cause, the County must notify the City in writing, specifying the cause, extent and effective date of termination, and the City shall have thirty three (33) days after the date of the written notice from the County to cure the stated cause for termination.

14.3 The parties reserve all available remedies afforded by law to enforce any term of condition of this Agreement.

ARTICLE 15
NOTICES

All required notices shall be given by certified first class U.S. Mail, return receipt requested. The parties agree to give each other non-binding duplicate facsimile notice. Future changes in address shall be effective upon written notice being given by the City to the County Executive Assistant or by the County to the City Manager via certified first class U.S. mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

If to the County:	Executive Assistant 1300 Commerce Drive Maloof Building, 6 th Floor Decatur, Georgia 30030 (404) 687-3585 (facsimile)
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September 27, 2018

With a copy to: County Attorney
1300 Commerce Drive, 5th Floor
Decatur, Georgia 30030
(404) 371-3024 (facsimile)

If to the City: City Manager
City of Stonecrest
3120 Stonecrest Blvd.
Stonecrest, GA 30038
(470) 299-4214 (facsimile)

With a copy to: City Attorney
City of Stonecrest
3120 Stonecrest Blvd.
Stonecrest, GA 30038
(470) 299-4214 (facsimile)

With a copy to: Thompson Kurrie, Jr.
City Attorney
3475 Lenox Road, NE
Suite 400
Atlanta, Georgia 30326
(770) 698-9729 (facsimile)

ARTICLE 16 EXTENSION OF AGREEMENT

This Agreement may be extended at any time during the term by mutual written consent of both parties so long as such consent is approved by official action of the City Council and approved by official action of the County governing authority.

ARTICLE 17 NON-ASSIGNABILITY

Neither party shall assign any of the obligations or benefits of this Agreement.

ARTICLE 18 ENTIRE AGREEMENT

The parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and agreement of the parties regarding the subject matter of the Agreement. This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement, and supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon the City or the County. All parties must sign any subsequent changes in the Agreement.

ARTICLE 19
SEVERABILITY, VENUE AND ENFORCEABILITY

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the State of Georgia without regard to conflicts of law principles thereof. Should any party institute suit concerning this Agreement, venue shall be in the Superior Court of DeKalb County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

ARTICLE 20
BINDING EFFECT

This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors.

ARTICLE 21
INDEMNITY

21.1 It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. Only to the extent permitted by law, shall the City defend, indemnify and hold harmless the County and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the City, its employees, officers and agents. The County shall promptly notify the City of each claim, cooperate with the City in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the City's participation.

21.2 It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. Only to the extent permitted by law, shall the County defend, indemnify and hold harmless the City and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the City or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the County, its employees, officers, and agents. The City shall promptly notify the County of each claim, cooperate with the County in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the County participation.

September 27, 2018

21.3 The indemnification provisions of this Agreement shall survive the termination of this Agreement and for any claims that may be filed after the termination date of this Agreement, provided the claims are based upon actions that occurred during the term of this Agreement.

**ARTICLE 22
COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

September 27, 2018

IN WITNESS WHEREOF, the County and the City have executed this Agreement through their duly authorized officers.

This ____ day of _____, 2018.

DEKALB COUNTY, GEORGIA

MICHAEL J. THURMOND
Chief Executive Officer

ATTEST:

BARBARA H. SANDERS, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

DARNELL D. FULLUM
Chief, Fire and Rescue

MARIAN C. ADEIMY
Assistant County Attorney

CITY OF STONECREST, GEORGIA

JASON LARY, SR.
Mayor

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

MICHAEL HARRIS
City Manager

THOMPSON KURRIE, JR.
City Attorney



CITY COUNCIL AGENDA ITEM

SUBJECT: Ordinance Adopting Chapter 19 (Parks and Recreation) of the City Code

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

Date Submitted: 09/26/18 **Council Meeting:** 10/03/18 **Council Meeting** 10/15/18

SUBMITTED BY: City Attorney

PURPOSE: This item is the ordinance adopting Chapter 19 Parks and Recreation

HISTORY: First Read was on October 3, 2018

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Second Read and Adoption

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING
CHAPTER 19 (PARKS AND RECREATION) OF THE CITY CODE.**

WHEREAS, the City of Stonecrest, Georgia Mayor and City Council are authorized by the City Charter to provide for the general health, safety and welfare of the citizens of the City and to acquire and hold properties to effectuate same; and

WHEREAS the Mayor and City Council find it to benefit the welfare of the citizens to provide recreational facilities for use by the general public and provide for regulation of same; and

WHEREAS, this Ordinance shall be adopted as part of the City of Stonecrest City Code, as Chapter 19 (Parks and Recreation).

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

Section 1: The Mayor and City Council of the City of Stonecrest, Georgia, hereby adopt an Ordinance designated as “Chapter 19. Parks and Recreation” to read and be codified as follows:

CHAPTER 19. PARKS AND RECREATION.

ARTICLE I. - IN GENERAL

Sec. 19-1. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage means intoxicating beverage, malt beverage, wine or any other beverage containing any alcohol whatsoever.

Building means any structure attached to the ground which has a roof and which is designed for the shelter, housing or enclosure of persons, animals or property of any kind.

33 *Hobby rocket* means a small rocket constructed of paper, wood, plastic and other
34 lightweight material that is able to be launched by anybody, to generally low
35 altitudes and recovered by a variety of means.

36 *Litter* means garbage, refuse, paper, rubbish, debris, trash and all other waste
37 material whether natural or artificial.

38 *Recreation facilities* means all recreation areas in parks, including land,
39 buildings, lakes, swimming pools, sports fields, cemeteries, and all other
40 property and buildings owned, leased, or managed by the City, the City Parks
41 and Recreation Department, the designated agents or departments of the City or
42 the City Parks and Recreation Department, and including all recreation areas
43 and parks in the City owned by the United States government, the State of
44 Georgia or DeKalb County.

45 *Vehicle* means any motor-driven equipment, such as an automobile, truck,
46 motorcycle, bicycle, sled, go-cart, scooter, skateboard, ATV, child's toy vehicle,
47 or Segway.

48 *Weapon* means firearm, rifle, pistol, revolver, paintball gun, or any weapon
49 designed or intended to propel a shot, bullet, or other missile of any kind, or any
50 device capable of discharging a projectile by air, spirit, gas or explosive, or any
51 explosive substance or harmful solid, liquid and gaseous substance, or any
52 spear, arrow, bow and arrow, slingshot, crossbow, spear or spear gun, or any
53 dirk, Bowie knife, switchblade knife, ballistic knife, or any other knife, straight-
54 edged razor, spring stick, metal knuckles, blackjack, any bat unless otherwise
55 used in a sporting event, club or other bludgeon-type weapon, or any flailing

instrument or any disk which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun, taser or similar device.

Sec. 19-2. Enforcement of Chapter.

This chapter shall be enforced by any authorized law or code enforcement officer of the City. Where there has been a violation of any provisions of this Chapter, the law or code enforcement officer in his discretion may issue a citation, warning and/or order the person to leave the park or recreation area.

Sec. 19-3. Penalties for Violation of Chapter.

Any person violating any provision of this Chapter shall be penalized pursuant to Chapter 1 of this Code.

Sec. 19-4. Parks and Recreation Director; Powers and Duties.

The Director of Parks and Recreation or employees under the direction of the Director shall:

- (1) Establish, conduct, and maintain a recreation system for the City in such a way as to employ the leisure of the people in a wholesome and constructive manner;
- (2) Provide for, conduct, and supervise public playgrounds, indoor recreation centers, and other recreational facilities owned or controlled by the City;
- (3) Recommend the setting aside, leasing or acquisition of lands or buildings within the City limits for use as parks, playgrounds, recreation centers or for other recreational purposes, and to provide for the maintenance and improvement of these areas;

- (4) Cooperate with the local school board in the establishment, conduct and maintenance of a recreation system;
- (5) Otherwise assist in the operation and enforcement of this Chapter.

Sec. 19-5. Through 19-25. Reserved.

ARTICLE II. PARKS AND RECREATIONAL FACILITY RULES

Sec. 19-26. Hours of Operation.

- (a) It shall be unlawful for any person or vehicle to enter or be within a recreation facility outside of the posted hours of operation unless approved by permit, by the Director or unless such person is participating in authorized and scheduled programs, classes, special events or meetings.
- (b) Parks and Recreation facilities are open at 7:00 a.m., and shall close at sunset, except that parks containing lighting for night use shall close at 11:00 p.m. or as otherwise posted and authorized by the Director. Only those areas of park and recreation facilities which are illuminated and in use at night shall be interpreted as being open after sunset. All other portions of the facilities if not illuminated are considered to be closed. Applicable closing signs shall be conspicuously posted at all park and recreation facilities and any deviation from these times must be approved by the Director.

Sec. 19-27. Using Parks for Golf Practice, Putting Greens, Driving Ranges.

No person shall use any park or other area owned or operated by the City for recreation purposes as a field for golf practice, putting green or driving range, except those areas specifically designated as golf clubs for such purposes.

Sec. 19-28. Motor Vehicles Restricted.

- (a) No person shall operate a motorized vehicle of any kind or nature in or on any city park, bicycle path, or other area owned or operated by the City for recreational purposes except upon roadways designated and maintained for vehicular traffic at the speed limit as posted by the Director of designee, and except upon walkways when permitted and approved by the Director. This section does not prohibit persons with disabilities from using a wheelchair as an auxiliary aid in or on any City park, bicycle path, or other area owned or operated by the City for recreational purposes.
- (b) Law enforcement and City officials whose duties require them to drive maintenance vehicles and equipment shall be exempt from the limitations set forth in this Section.

Sec. 19-29. Reservation of Park Facilities; Violations

- (a) *Fees.* The use of a City park area or picnic shelter may be reserved for a reasonable period of time for the purpose of group activities through application to the City and upon payment of a reservation fee in accordance with the schedule established by action of the City Council, a copy of which is on file in the office of the City Clerk.
- (b) *Application.* All persons desiring to reserve a park area or picnic shelter shall make application to the Parks and Recreation Department, on a form prescribed by the City.
- (c) *Fund-raisers at picnic shelters.* Any person/group wishing to hold a fund-raiser at a City picnic shelter must follow procedures for reserving picnic shelters and provide verification of current registration with the secretary of state.
- (d) *Refusal or revocation permit.* The Parks and Recreation Department reserves the right to refuse or revoke permits. Such a determination shall

be based on health, safety and welfare of the public and protection of
City property.

- (e) It shall be unlawful for any person to engage in any activity in City recreation facilities which requires a reservation fee, permit and/or a ticket without first paying said fee and obtaining a permit or ticket.

Sec. 19-30. Alcoholic Beverages.

- (a) *Prohibited; exception.* No person shall serve, consume or transport in open containers any alcoholic beverage within a City park or recreation facility, except at a group function for which a permit has been issued by the Parks and Recreation Department, or as may be otherwise provided by this Code.

- (b) *Application for permit.* All persons desiring to obtain a permit to serve or consume alcoholic beverages on City park property shall make application to the City Manager or designee on a form prescribed by the Parks and Recreation Department, and shall pay a permit fee in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk.

- (c) *Locations where permitted.* Permits may be issued by the Parks and Recreation Department Director for the consumption of alcoholic beverages at specified City parks and locations within said parks as approved by Mayor and City Council.

- (d) *Refusal and revocation of permits.* The Parks and Recreation Department Director, or designee, shall have the right to refuse and revoke permits for failure to comply with any provisions of this Chapter or applicable provisions in other parts of this Code.

Sec. 19-31. Special Prohibitions.

- (a) *Paint.* It shall be unlawful for any unauthorized person to possess paint, in any form, in or on any park or other area owned or operated by the City for recreation purposes.
- (b) *Glass containers.* No person shall possess a glass container in or on any park or other area owned or operated by the City for recreation purposes.
- (c) *Bicycles on athletic fields.* No person shall ride or walk a bicycle or other non-motorized vehicle in or on any athletic field owned or operated by the City for recreational purposes. This section does not prohibit persons with disabilities from using a wheelchair as defined in section 19-28 as an auxiliary aid on such fields.
- (d) *Bicycles on park trails and paths.*
- (1) No person shall ride, carry, push or otherwise manually transport a one-, two- or three-wheeled cycle on or through any trails owned or operated by the City and designed solely for pedestrian use.
- (2) This subsection (d) does not prohibit the use of such cycles on trails or paths specifically designated for bicycling or multi-uses that include cycling. No person shall operate a one-, two- or three-wheeled cycle or a trailer attached to a cycle on trails specifically designated for bicycling or multi-uses that include cycling, if the width of the trailer or cycle exceeds 36 inches as measured from the outer rim of the back tires.
- (3) This section does not prohibit persons with disabilities from using a wheelchair as defined in section 19-28 as an auxiliary aid on city-owned or city-operated trails and paths.
- (e) *Killing Wildlife.* It shall be unlawful for any person to hunt, trap, shoot, maim or kill any animal or wildlife, or attempt to do any of the above to any animal or wildlife within any of the City recreation facilities without the written permission of the Director, unless threatened with bodily injury or death.

(f) *Polluting Water.* It shall be unlawful for any person to pollute or disturb any spring, branch, pond, fountain, or other water owned by or leased to the City within a recreation facility.

(g) *Posting Signs.* It shall be unlawful for any person to affix any bill, sign or notice on any tree, building or fixture, or handouts to any other person in any of the recreation facilities unless authorized by the Director or designee. It shall be unlawful for any person to place any paper, books, refuse, or trash of any kind in any of the public parks, except in containers provided for such.

(h) *Skateboards.* It shall be unlawful for any person to operate a skateboard on any street, lane, way, road and/or any parking lot in any recreation facility in the City, with the exception of pedestrian sidewalks, unless otherwise designated by signage posted by the Director or designee or published rules.

(i) *Urban Camping.* It shall be unlawful to reside or to store personal property in any recreation facility owned by the City. Furthermore, it shall be unlawful to use any public place, including City recreation facilities, for living accommodations purposes or camping, except in areas specifically designated for such use or specifically authorized by permit.

Sec. 19-32. Littering.

It shall be unlawful for any person to throw, dump, or deposit litter on the grounds, streets, sidewalks, ponds, lakes, swimming pools or other body of water in any City park or recreation facility, except within public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the recreation facility.. Where public receptacles are not provided, all such litter shall be carried away from the recreation facility by the person responsible for its presence and shall be properly disposed of elsewhere.

Sec. 19-33. Closing Ballfields.

The Parks and Recreation Department may close to the public particular ballfields for maintenance purposes. Such ballfields shall be posted, and it shall be unlawful for any person to enter a closed field.

Sec. 19-34. Noises.

It shall be unlawful for any person to whistle, hiss or holler at another person in a boisterous, unbecoming or erring manner or make any loud noises that would disturb a reasonable person of ordinary sensibilities, engage in any noise dispute or conversation that would disturb a reasonable person of ordinary sensibilities, or display, play or operate any sound amplification device including radios, television sets, public address systems, musical instruments, CD players and the like in such a way which either annoys, disturbs, injures or endangers the comfort, repose, peace or safety of a reasonable person of ordinary sensibility in a recreation facility. Amplified sound devices used during a special event or rental event are allowed pursuant to a written permit by the Director or the Director's designee.

Sec. 19-35. Weapons; Pyrotechnics.

(a) Weapons include, but are not limited to, firearms; knives; air guns; paintball guns; archery equipment; explosives; slingshots; fishing spears; any device designed to launch a projectile by physical strength, compressed gas/compressed air or a fuel source; and other devices designed for the purpose of offense or defense.

(b) It shall be unlawful for any person other than law enforcement officers to shoot, use, discharge, or employ any weapon or similar device in any park or other area owned or operated by the City for recreational purposes.

(c) It shall be unlawful for any person other than law enforcement officers to discharge any firearm in any park or other area owned or operated by the City for recreational purposes.

(d) The Director of the Parks Department or designee may issue a permit for a time-limited use of weapons other than firearms, and the permit shall set forth specific conditions for use and handling of such weapons.

(e) It shall be unlawful for any person to possess, display, use, set off or attempt to ignite any firecracker, fireworks, smoke bombs, rockets, black powder guns or other pyrotechnics, unless approved by written permit by the Director or the Director's agent.

Sec. 19-36. Fires.

(a) It shall be unlawful for any person to build or maintain a fire in any park or other area owned or operated by the City for recreational purposes except in designated areas clearly marked by signs or defined by the existence of city-approved fire rings.

(b) Permanently mounted grills may be used and personal grills may be used in designated authorized areas.

(c) Camp fires may be allowed with written authorization from the Director of the Parks and Recreation Department or his designee for organized groups allowed in any park or other area owned or operated by the City for recreational purposes after closing time. The written authorization must be on site with the event organizer or designee and available for inspection at the time of the camp fire.

Sec. 19-37. Swimming.

(a) It shall be unlawful for any person to swim, bathe or wade in any body of water in a recreation facility unless designated for such use and then only in accordance with the rules, regulations and restrictions promulgated and posted at the recreation area.

- (b) Entering and using any body of water located in any park or other area owned or operated by the City for recreational purposes for bathing or excretory functions is unlawful.

Sec. 19-38. Watercraft.

- (a) Lakes and streams located in City parks or other areas owned or operated by the City for recreational purposes may be used for boating.
- (b) Boats, canoes, rubber rafts or other floating watercraft may not be used in any park or other area owned or operated by the City for recreational purposes if such equipment is powered by more than 12-volt electric motors.
- (c) It shall be unlawful for any person to operate a watercraft with a petroleum-based, fuel-burning engine in any park or other area owned or operated by the City for recreational purposes.
- (d) All watercraft must be carried by hand to the water's edge for launching. Watercraft shall not be permitted to be towed by vehicle to the edge of any body of water in any park or other area owned or operated by the City for recreational purposes.
- (e) This section shall not apply to official use of watercraft by law enforcement, fire and rescue personnel, or by city crews for maintenance and inspection.

Sec. 19-39. Damage or Removal of Park Property or Vegetation.

- (a) It shall be unlawful for any person to dig up, cut, damage or remove any tree, tree limb, shrubbery, flowers, rock, mulch or other vegetation/natural fixture located in any park or other area owned or operated by the City for recreational purposes.
- (b) It shall be unlawful for any person to deface, graffiti, harm or damage any recreation facility buildings, wildlife, property, equipment or signs.

- (c) This section shall not apply to personnel employed or engaged by the City to maintain city parks and recreational areas or an authorized group of volunteers involved in a City-approved project for the enhancement of a park or other area owned or operated by the City for recreational purposes.

Sec. 19-40. Artifact or Treasure Hunting.

- (a) It shall be unlawful for any person to search any park or other area owned or operated by the City for recreational purposes for historic artifacts or for the purpose of locating lost or abandoned personal property of another, unless such person specifically is authorized by the owner of that personal property to make such search on the owner's behalf.
- (b) It shall be unlawful for any person to remove any historic artifacts or lost or abandoned personal property of another from any park or other area owned or operated by the City for recreational purposes unless such person specifically is authorized by the owner of that personal property to recover such personal property on the owner's behalf.
- (c) It shall be unlawful for any person to dig in or otherwise disturb the ground in a park or other area owned by the City for recreational purposes, except under the circumstances permitted in section 19-40(c).
- (d) This section does not prohibit a person from visually searching for and reclaiming his own lost property in any park or other area owned or operated by the City for recreational purposes, either by himself or by someone specifically authorized by the owner of the lost personal property to act on his behalf.
- (e) The prohibitions of this section shall not apply to law enforcement personnel engaged in the lawful execution of their duties or to persons employed or engaged by the City when performing their duties in any

park or other area owned or operated by the City for recreational purposes.

Sec. 19-41. Commercial Activity.

Unless approved by prior written permit issued by the Director of the Parks and Recreation Department or designee, it shall be unlawful for any person, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group, organization or combination acting as a unit in any City park to:

- (1) Sell or offer for sale any merchandise;
- (2) Operate or attempt to operate a concession; or
- (3) Engage in any commercial or charitable activity in a City park.

The written permit must be on site with the event organizer or designee and available for inspection at the time the activity regulated in this section is occurring.

Sec. 19-42. Native Wildlife.

- (a) It shall be unlawful to remove or disturb any living or dead native creatures in City parks, including mammals, birds, fish, amphibians, and reptiles, or the parts or progeny thereof, such as nests, eggs, or antlers.
- (b) Fishing activities in City park lakes or streams shall be allowed from the shore of a body of water or from watercraft, if the location is designated by a City sign as allowing fishing at that particular location.

Sec. 19-43. Personal Conduct.

It shall be unlawful for any person to engage in any violent, abusive, loud, boisterous, vulgar, wanton, obscene or otherwise disorderly conduct that would disturb a reasonable person of ordinary sensibilities, or engage in any activity that could cause injury to other persons while on or in connection with a

recreation facility. No person shall upon or in connection with a recreation facility by act or speech willfully or unreasonably hinder, interrupt or interfere with any duly permitted activity or unreasonably or willfully intrude on any areas or into the structures designated for the use of a certain person or persons to the exclusion of others by written permit of the Director.

Sec. 19-44. Smoking Prohibited.

It shall be unlawful to smoke in any recreational facility, whether indoors or outdoors. For the purposes of this section, smoking shall include cigarettes and other legal and illegal substances, any controlled substances, and smoking in any manner, including any pipes and materials, including e-cigarettes, whether organic or inorganic, utilized for lighting and inhaling thereof.

Sec. 19-45. Parking Restricted.

(a) It shall be unlawful to park any motorized or electric vehicle in a recreation facility except in those areas designated by the appropriate signs as vehicle parking areas or in marked parking spaces. It shall be unlawful to leave a vehicle standing or parked in a recreation facility during hours when the recreation facility is closed, unless otherwise permitted to do so by the Director or designee. In such instances, the vehicle may be towed from the recreation facility at the owner's expense.

(b) It shall be unlawful for any person to park in a recreation area or facility if the owner of the vehicle is not utilizing the recreation facility unless authorized by the Director or designee. It shall be unlawful for persons to congregate within a parking area of a recreation facility so as to disrupt traffic or other persons, or so as to create a safety hazard.

Sec. 19-46. Animals Restricted.

(a) It shall be the duty of every animal owner or custodian whose animal is in a recreation facility to have physical control of the animal by leash or

lead line at all times unless in designated dog park areas where off leash is permitted or approved, by permit, by the Director or designee. It shall be unlawful for any person with an animal, other than service dogs, as necessary, to access areas of a recreation facility which are restricted to animals. It shall be the duty of every animal owner or custodian of any animal whose animal is in a recreation facility to immediately and properly dispose of waste deposited by the animal.

- (b) It shall be the duty of every animal owner or custodian of any animal whose animal is in a recreation facility to have in their possession proof of current registration and a current rabies vaccination for their animal.

Sec. 19-47. Engine Powered Models, Toys and Hobby Rockets Restricted.

- (a) It shall be unlawful for any person to start, fly or use any fuel powered engine, jet-type or electric powered model aircraft, boat or rocket or like powered toy or model, except at those areas designated by the Director for such use and then only in accordance with such rules, regulations and restrictions promulgated by the Director or designee.
- (b) It shall be unlawful for any person to launch hobby rockets from a recreation facility unless done so at locations specifically designated for said purpose by the Director or otherwise approved by written permit by the Director or designee.

Sec. 19-48. Signage Regulated.

It shall be unlawful for any person to post signage in recreation facilities unless it is in conjunction with a permitted rental or permitted special event, or as otherwise approved by the Director. Temporary signage will be limited to the numbers established in the City of Stonecrest Administrative Guidelines for Special Event Signage and Advertising or as otherwise approved by the City council.

Sec. 19-49. Violation of Facility Regulations.

It shall be unlawful for any person to violate any rules or regulations relating to the use of the recreation facility as established by the Director or by the City Council.

Section 2:

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

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

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE 2018-_____

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Approved:

Jason Lary, Sr., Mayor

As to form:

Thompson Kurrie, Jr., City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: Ordinance Adopting Chapter 11 (Emergency Management and Services) in the City Code

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

Date Submitted: 09/26/18 Council Meeting: 10/03/18 Council Meeting 10/15/18

SUBMITTED BY: City Attorney

PURPOSE: This item is the ordinance adopting Chapter 11 Emergency Management and Services

HISTORY: First Read was on October 3, 2018

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Second Read and Adoption

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING
CHAPTER 11 (EMERGENCY MANAGEMENT AND SERVICES) OF THE CITY
CODE.**

WHEREAS, the City of Stonecrest, Georgia Mayor and City Council are authorized by the City Charter to provide for the general health, safety and welfare of the citizens of the City; and

WHEREAS the Mayor and City Council find it to benefit the welfare of the citizens to provide a system of emergency management to safeguard and population of the City in the event of a natural or manmade disaster; and

WHEREAS, this Ordinance shall be adopted as part of the City of Stonecrest City Code, as Chapter 11 (Emergency Management and Services).

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

Section 1: The Mayor and City Council of the City of Stonecrest, Georgia, hereby adopt an Ordinance designated as “Chapter 11. Emergency Management and Services” to read and be codified as follows:

CHAPTER 11. EMERGENCY MANAGEMENT AND SERVICES.

ARTICLE I. - IN GENERAL

Sec. 11-1. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Emergency Management means the preparation for the carrying out of all emergency functions other than functions for which military forces are primarily responsible to prevent, minimize, and repair injury and damage resulting from emergencies, energy emergencies, disasters, or the imminent threat thereof, of manmade or natural origin caused by enemy attack, sabotage, acts of domestic or international terrorism, civil disturbance, fire, flood, earthquake, wind storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, riot or other hostile action, radiological action, or other

causes. These functions include, without limitation, firefighting services; police services; emergency medical services; rescue; engineering; warning service; communication; defense from radiological, chemical, biological and other special weapons to include weapons of mass destruction; evacuation of persons from stricken areas, emergency welfare services; consequence management functions to include victim services; emergency transportation; plant protection; temporary restoration of public utility services; and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

Sec. 11-2. Emergency Management Director.

(a) The Mayor shall nominate, for approval by the Georgia Director of Emergency Management and the Governor, a city Emergency Management Director. If the person nominated as Director will be receiving compensation from the City for this position, the Mayor's nomination shall be subject to confirmation by the City Council. The Director will work with the County to develop an Emergency Management Plan or assist and participate in the County's existing Emergency Management Plan. ~~The appointed director shall meet the qualifications detailed by O.C.G.A. §38-3-27.~~

(b) If the Director is compensated for his/her services as the City Emergency Management Director, the Director shall meet the requirement qualifications in O.C.G.A. §38-3-27, including being at least 21 years of age, without a felony conviction, a completed high school education and all initial courses required by the Georgia Director of Emergency Management within 180 days following nomination, and capability to draft appropriate disaster plans, respond to emergency scenes or operation centers, coordinate emergency response of public and private agencies, attend training and attend all meetings convened by the Georgia Director of Emergency Management. If the compensated Director is a full-time

68 compensated employee, the Director shall have no other private or public
69 sector employment that conflicts, or has potential to conflict, with his role
70 as City Emergency Management Director, and shall be a certified
71 emergency manager under the Georgia Emergency Management and
72 Homeland Security Agency's Certified Emergency Manager Program.

73 (c) If the Director is compensated part-time for said role and is also a part-
74 time employee of the City in another capacity, the Mayor and Council,
75 upon approval of said Director by the Georgia Director of Emergency
76 Management and the Governor, shall adopt an Ordinance specifying that,
77 while acting as City Emergency Management Director, the Director shall
78 relinquish his authority and responsibility associated with his other role
79 and shall name another person to assume such responsibilities while the
80 Director is assuming the emergency management duties, including all
81 duties specified in subsection (b) above. If the Director is a part-time
82 employee in a private sector, said Director must submit a letter from his
83 employer stating that he will be permitted to assume his role as City
84 Emergency Management Director when necessary without any penalty for
85 his alternate private sector role.

86
87 **Sec. 11-3. Emergency Powers.**

88 In the event of manmade or natural disaster, actual enemy attack upon the United
89 States or any other emergency which may affect the lives and property of the
90 citizens of the City, the Mayor, or in his absence a legally appointed successor,
91 may exercise for such period as such state of emergency exists or continues, the
92 following emergency powers:

- 93 (1) To enforce all rules, laws, and regulations relating to emergency
94 management and to assume direct operational control over all
95 emergency management resources;
- 96 (2) To establish, when necessary, local restrictions pertaining to
97 curfew and the sale of liquor, gasoline and weapons;

- (3) To perform and exercise such other functions and duties, and take such emergency actions as may be authorized by law to promote an secure the safety, protection and well-being of the inhabitants of the City, including those powers provided by O.C.G.A. §33-8-27.

Sec. 11-4. Volunteers.

All persons, other than officers and employees of the City, performing emergency functions pursuant to this Chapter, shall serve without compensation. While engaged in such emergency functions, duly assigned volunteers shall have the same immunities as City officers and employees.

Sec. 11-5. Prohibited pricing practices during state of emergency.

- (a) It shall be an unlawful, unfair, and deceptive trade practice for any person, firm, or corporation doing business in any area of the City in which a state of emergency, as such term is defined in this Chapter has been declared, for as long as such state of emergency exists, to sell or offer for sale at retail any goods or services necessary to preserve, protect, or sustain the life, health or safety of persons or their property at a price higher than the price at which such goods were sold or offered for sale immediately prior to the declaration of a state of emergency, provided, however, that such price may be increased only in an amount which accurately reflects an increase in cost of the goods or services to the person selling the goods or services or an increase in the cost of transporting the goods or services into the area.
- (b) Notwithstanding the provisions of subsection (a) of this section, a retailer may increase the price of goods or services during a state of emergency if the price charged for those goods or services is no greater than the cost to the retailer of those goods or services, plus the retailer's average markup percentage applied during the ten days prior to the declaration of a state of emergency.

- (c) Upon conviction in municipal court, a person found violating this Chapter shall be punished in accordance with Chapter 1 of this Code.

Section 2:

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

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

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE 2018-_____

Approved:

Jason Lary, Sr., Mayor

As to form:

Thompson Kurrie, Jr., City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend Stonecrest Budget Amendment No. 2018-001

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

Work Session: 9/17/18 Council Meeting: 10/3/18 Council Meeting 10/15/18

SUBMITTED BY: City Manager, Michael Harris

PURPOSE: Stonecrest Budget Amendment No. 2018-002

HISTORY: The Council voted on and approved Budget Amendment # 2018-001 on March 21, 2018. This amendment was to address the changes made to the Municipal Services contract. First Read was on October 3, 2018.

FACTS AND ISSUES: The adopted 2018 budget was based on a limited amount of historical data from the previous 7 months of the City being in operation. Underestimated costs in the areas of advertising and court expenses, along with the expansion of our software needs due to additional users and additional equipment needed to be addressed. Due to sound financial practices, and across the board austerity measures, this proposed budget amendment is balanced from surplus in various departments, with no proposed transfers coming from the City's Fund Balance.

OPTIONS:

RECOMMENDED ACTION: Second Read and Adoption

**AN ORDINANCE TO APPROVE AN AMENDMENT TO THE BUDGET FOR THE
FISCAL YEAR 2018 FOR EACH FUND OF THE CITY OF PURSUANT TO SECTION
5.04 OF THE CITY CHARTER**

WHEREAS, The Mayor and City Council adopted the 2018 Budget on December 27, 2017, which incorporated all the various funds of the City, and approved an amendment to that Budget on March 21, 2018; and

WHEREAS, the estimated operating expenses were based largely upon limited historical data from the previous seven months during the City's start-up phase; and

WHEREAS, operating cost estimates were underestimated in some areas, and overestimated in others which allows for a balanced budget amendment without the need to transfer monies from the City's Fund Balance account; and

WHEREAS, the proposed budget amendment represents less than 1.3% of the total overall budget

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

Section 1: That the City of Stonecrest, Georgia hereby amends the Budget for Fiscal Year 2018, said budget being described as Amendment No. 2018-002, attached hereto and incorporated herein as Exhibit A.

Section 2. That any increase or decrease in appropriations or revenue of any fund or for any department; the establishment of new capital projects; or the establishment of new grant projects other than those exceptions provided for herein, shall require approval of the City Council; and

Section 3. That the City Manager and his/her designee may promulgate all necessary internal rules, regulations, and policies to ensure that this Budget Ordinance is followed.

Section 4: This Ordinance shall be effective immediately upon its adoption

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of same. It is hereby further declared to be the intention of the Mayor and City Council that,

to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of same.

3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the same and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

5. The within ordinance shall become effective upon its adoption.

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

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk

Budget Amendment: 2018-002
 Stonecrest General Operating Budget
 Date: October 3, 2018

Description	Line Item #	Addition (+)	Reduction (-)	Notes
City Council				
Education & Training	52370	\$9,000.00		Increase Training for Mayor and Council by \$1,500 each
Retirement	51240		\$4,000.00	
City Manager				
City Events	53175	\$300.00		
Education & Training	52370		\$500.00	
City Clerk				
Travel	52350	\$700.00		Under-Budgeted Clerk travel (GMA Conf.)
Operating Supplies	53100		\$1,000.00	
Finance Admin.				
Audit	52110		\$10,000.00	Actual Costs: External: \$30,000; Internal: \$25,000
Professional Services	52120		\$12,000.00	no payment due to Tax. Comm. This year (no millage)
Communications				
Other Equip.	54250	\$700.00		Cost for Video equipment and external hard drive
Printing	52340		\$1,500.00	
IT/GIS				
Operating Supplies	53100	\$3,000.00		equipment for additional staff; Tech upgrades(GIS)
Other Equip.	54250		\$1,500.00	
Computer/Software	54240	\$3,000.00		

General Operations

Computer/Software	54240	\$15,000.00		Added 2nd copier; additional internet/fax/cable lines
Liability Insurance	52310		\$5,000.00	Surplus remaining after annual payment
Other Equipment	54250		\$2,500.00	
Professional Services	52120		\$7,000.00	

Parks

Repair/Maint.	52200		\$10,000.00	Will utilize SPLOST funds for Repair/Maint.
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Legal

Attorney Fees(other)	52130			Additional time on lawsuits
Professional Services	52120	\$15,000.00	\$5,000.00	Do not anticipate using Bond Attorney this year

Economic Development

Film Permitting	34120		\$2,000.00	
Marketing	52132		\$14,900.00	Opted to not do annual contract for monthly newsletter

Municipal Court

Solicitor	52140	\$11,000.00		Cost exceeded initial estimate
Security	52180	\$1,200.00		Increased number of bailiffs from two to three
Public Defender	52150		\$2,000.00	Have not used this year
Probation Services	52160		\$2,000.00	No cost to City; Collected \$3000 in revenue

Community Development

Computer/Software	54240	\$10,000.00		Added additional users for CitizenServe software
Advertising	52330	\$14,000.00		Underestimated cost to advertise for zoning cases
Operating Supplies	53100		\$1,000.00	
Printing	52340		\$1,000.00	

Total		\$82,900.00	\$82,900.00	
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CITY COUNCIL AGENDA ITEM

SUBJECT: Ordinance City of Stonecrest Designating Chapter 16-Miscellaneous Provisions and Offenses

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

Council Meeting: 10/03/2018

Council Meeting 10/15/2018

SUBMITTED BY: City Attorney

PURPOSE: This item is to designate Chapter 16 for Miscellaneous Provisions and Offenses

HISTORY: This item was deferred at the September 17, 2018 meeting.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Adoption of the Ordinance

AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA,

WHEREAS, Pursuant to subsection (29) of Section 1.03 of the Charter of the City of Stonecrest, Georgia, the City of Stonecrest (the "City") has been vested with the power to "To provide for the prevention and punishment of loitering, disorderly conduct, drunkenness, riots, and public disturbances"; and

WHEREAS, the City has the power to define, regulate, license, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare and safety of the inhabitants of the City, and to provide for the enforcement of such standards; and

WHEREAS, the Mayor and City Council find it desirable and in the interest of the health, safety, and welfare of the citizens of the City to adopt an ordinance regulating miscellaneous offenses;

Section 1: The Mayor and City Council of the City of Stonecrest, Georgia, hereby adopt an ordinance designated as "Chapter 16- Miscellaneous Provisions and Offenses" to read and to be codified as follows:

CHAPTER 16 - MISCELLANEOUS PROVISIONS AND OFFENSES

ARTICLE I. - IN GENERAL

Sec. 16-1. - Fines and punishment.

Unless otherwise specified, any person found guilty of violating any provision of this chapter shall be punished in a manner consistent with this Code and Georgia law.

Sec. 16-2. - Criminal impersonation.

(a) As used in this section, "intent to defraud" means the use of deception with the intention to injure another's interest which has economic or monetary value.

(b) A person commits the offense of criminal impersonation if the individual:

(1) Assumes a false identity and commits any act in their assumed character with the intent to defraud another; or

(2) Pretends to be a representative of some person or organization and commits any act in their pretended capacity with the intent to defraud another.

37 Sec. 16-3. - False representation of age.

38 It shall be unlawful for any person to misrepresent his/her age in any manner whatever for the
39 purpose of gaining entrance to events or establishments that require a minimum age including, but
40 not limited to, bars, nightclubs, movies, video stores, bookstores or bingo parlors.

41 Sec. 16-4. - Aiding, encouraging minor to commit unlawful act.

42 No person shall aid, abet or encourage a minor to do any act which constitutes a violation of
43 any State law or this Code.

44

45 Secs. 16-5 – 16-19. – Reserved.

46

47 ARTICLE III. - OFFENSES AGAINST PUBLIC PEACE, ORDER AND SAFETY

48 DIVISION 1. - GENERALLY

49 Sec. 16-20. - Disorderly conduct.

50 (a) It shall be unlawful for any person to disturb or endanger the public peace or decency by
51 any disorderly conduct.

52 (b) The following acts, among others, are declared to be disorderly conduct:

53 (1) Act in a violent or tumultuous manner toward another whereby any person is placed in
54 fear of the safety of such person's life limb or health;

55 (2) Act in a violent or tumultuous manner toward another whereby the property of any person
56 is placed in danger of being damaged or destroyed;

57 (3) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the
58 life, limb, health or property of another;

59 (4) Assemble or congregate with another or others for the purpose of gaming;

60 (5) Be in or about any place, alone or with others, with the purpose of or intent to engage in
61 any fraudulent scheme, trick or device to obtain any money or valuable thing' or to aid
62 or abet any person doing so;

63 (6) Be in or about any place where gaming or illegal sale or possession of alcoholic beverages
64 or narcotics or dangerous drugs are practiced, allowed or tolerated, for the purpose of or
65 intent to engage in gaming or the purchase, use, possession or consumption of such illegal
66 drugs, narcotics or alcohol;

67 (7) Direct fighting words toward another, that is, words which by their very nature tend to
68 incite an immediate breach of the peace;

69 (8) Interfere, by acts of physical obstruction, with another's pursuit of a lawful occupation;

(9) Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic, and to fail to clear that public way after being ordered to do so by a City official, police officer or other lawful authority;

(10) Stand or remain in or about any street, sidewalk, overpass, or public way so as to impede the flow of vehicular or pedestrian traffic, and to fail to clear such street, sidewalk, overpass or public way after being ordered to do so by a City Official, police officer or other lawful authority;

(11) Disrupt by actions which tend to cause an immediate breach of the peace the undisturbed activities of any house of worship, hospital, or home for the elderly; or

(12) Throw bottles, paper, cans, glass sticks, stones, missiles, or any other debris on public property.

Sec. 16-21. - Obstruction and interference.

(a) It shall be unlawful for any person to intentionally interfere or hinder a city official, employee, or agent when such official, employee or agent has properly identified either himself or is otherwise identifiable as such and is engaged in the lawful performance of his official duties.

(b) It shall be unlawful for any person to give a false name, address or date of birth, or any other false information, to any city official, employee, or agent in the lawful discharge of his official duties with the intent to mislead such official, employee or agent in any way.

(c) It shall be unlawful for any person to refuse to provide identification, address or date of birth to a code enforcement officer, police officer or fire marshal while said officer is conducting an investigation and the officer has reasonable belief that said individual committed a crime, is committing a crime or is about to commit a crime. However, said person shall not be compelled to answer any other inquiry.

Sec. 16-22. - Begging, panhandling or soliciting on public property, sidewalks and streets; certain designated places prohibited.

(a) Definitions. Except where the content otherwise requires, as used in this chapter:

(1) Aggressively beg, panhandle or solicit means any request made in person for a donation of money or some other article of value from another person by an unwanted touching, detaining, impeding or intimidation. Aggressive begging, panhandling or soliciting usually includes approaching or following pedestrians; repetitive begging, panhandling or soliciting despite refusals; the use of abusive or profane language; unwanted physical contact; or the intentional blocking of pedestrian and vehicular traffic. Also, any person who intentionally blocks the passage of another person or a vehicle, which requires another person to take evasive action to avoid physical contact, is an aggressive panhandler.

(2) Beg, panhandle or solicit, for purposes of this ordinance, means any request made in person for a donation of money or some other article of value, either by words, bodily gestures, signs or other means, from another person.

(3) Beg, panhandle, or solicit from any operator or occupant of a vehicle that is in traffic on a public street means any request made in person for a donation of money or some other article of value, either by words, bodily gestures, signs or other means, from any operator or occupant of a vehicle, coupled with an actual exchange of money or some other article of value between the person begging, panhandling or soliciting and any operator or occupant of a vehicle while that vehicle is on the portion of a public street currently in use by vehicular traffic.

(4) Obstruct pedestrian or vehicular traffic means to walk, stand, sit, lie or place an object in such a manner as to intentionally block passage of another person or a vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or to legally protest, and acts authorized by permit are not included within the definition of this term.

(5) Public place means an area generally visible to public view and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, including those areas that serve food or drink or provide entertainment or other services, outdoor cafes, public restrooms, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(6) For purposes of this ordinance, beggar, panhandler or solicitor means any person traveling either by foot, vehicle or other conveyance, from place to place, requesting in person a donation of money or some other article of value, either by words, bodily gestures, signs or any other means, from another person.

(b) Restrictions and requirements.

(1) Beggars, panhandlers or solicitors are prohibited from intentionally obstructing pedestrian or vehicular traffic.

(2) Beggars, panhandlers or solicitors are prohibited from aggressively begging, panhandling or soliciting.

(3) Beggars, panhandlers or solicitors are prohibited from begging, panhandling or soliciting from any operator or occupant of a vehicle that is in traffic on a public street, as those terms are defined in this article.

(4) Any operator or occupant of a vehicle that is in traffic on a public street is prohibited from offering money or some other article of value to a beggar, panhandler or solicitor resulting in the actual exchange of money or some other article of value between the person begging, panhandling or soliciting and the operator or occupant of a vehicle while that vehicle is on the portion of a public street currently in use by vehicular traffic.

(5) No person shall stand on a traffic median, bicycle path or public street to beg, panhandle or solicit when to do so would obstruct vehicular traffic.

(6) Begging, panhandling, soliciting or aggressive begging, panhandling or soliciting are prohibited at the following places:

- a. At an outdoor cafe;
- b. Within 12 feet of an outdoor cafe;
- c. In a public restroom;
- d. From any person standing in line to enter a building or event;
- e. Within 12 feet of a line to enter a building or event;
- f. Within 12 feet of the entrance or exit of a building;
- g. From any person using an automated teller machine, or any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit or convenience account (ATM);
- h. Within 12 feet of an ATM;
- i. From any person using a pay phone;
- j. Within 12 feet of a pay phone.

Sec. 16-23 – Reserved.

Sec. 16-24. – Reserved.

Sec. 16-25. - Shoplifting.

(a) *Unlawful act.* It shall be unlawful for any person to commit the offense of theft by shoplifting within the corporate limits of the city when the property which is the subject of the theft is \$500.00 or less in value.

(b) *Defined.* A person commits the offense of theft by shoplifting when alone or in concert with another person, with the intent of appropriating merchandise to such person's own use without paying for the same or to deprive the owner of possession thereof or of the value thereof, in whole or in part, does any of the following:

- (1) Conceals or takes possession of the goods or merchandise of any store or retail establishment;
- (2) Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;
- (3) Transfers the goods or merchandise of any store or retail establishment from one container to another;

(4) Interchanges the label or price tag from one item of merchandise with a label or price tag for another item of merchandise; or

(5) Wrongfully causes the amount paid to be less than the merchant's stated price for the merchandise.

Sec. 16-26. – Public defecation or urination.

It shall be unlawful for any person to defecate or urinate on or adjacent to any street or sidewalk, or in the halls, elevators, stairways, or any other area designated for public passage within any public or commercial buildings, or on any property open to public view.

Sec. 16-27. - Urban camping prohibited.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Camp means residing in or using a public street, sidewalk, or park for private living accommodations, such as erecting tents or other temporary structures or objects providing shelter; sleeping in a single place for any substantial prolonged period of time; regularly cooking or preparing meals; or other similar activities.

Public park means all municipal parks, public playgrounds, public plazas, attractions, and monuments.

Public street means all public streets and highways, public sidewalks, public benches, public parking lots, and medians.

Storing personal property means leaving one's personal effects such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for any substantial prolonged length of time. This term shall not include parking a bicycle or other mode of transportation.

(b) Public parks. It shall be unlawful to camp or to store personal property in any park owned by the city.

(c) Public streets. It shall be unlawful to camp, to sleep, to store personal property, to sit or to lie down on any public street.

(d) Other public property; blocking ingress and egress. It shall be unlawful to camp, to sleep, to store personal property, to sit or to lie down on any public property so as to interfere with ingress or egress from buildings.

(e) Warning. No person may be arrested for violating this section until he or she has received an oral or written warning to cease the unlawful conduct. If the violator fails to comply with the warning issued, he or she is subject to arrest for urban camping.

(f) Exceptions. This section shall not be construed to prohibit the following behavior:

- (1) Persons sitting or lying down as a result of a medical emergency;
- (2) Persons in wheelchairs sitting on sidewalks;
- (3) Persons sitting down while attending parades;
- (4) Persons sitting down while patronizing sidewalk cafes;
- (5) Persons lying down or napping while attending performances, festivals, concerts, fireworks, or other special events;
- (6) Persons sitting on chairs or benches supplied by a public agency or abutting private property owner;
- (7) Persons sitting on seats in bus zones occupied by people waiting for the bus;
- (8) Persons sitting or lying down while waiting in an orderly line outside a box office to purchase tickets to any sporting event, concert, performance, or other special event;
- (9) Persons sitting or lying down while waiting in an orderly line awaiting entry to any building, including shelters, or awaiting social services, such as provision of meals; or
- (10) Children sleeping while being carried by an accompanying person or while sitting or lying in a stroller or baby carriage.

Sec. 16-28. - Residential picketing prohibited.

(a) It shall be unlawful for any person to engage in picketing upon, before, or about the private residence or home of any individual.

(b) Picketing shall include, but not be limited to, the following types of activity:

- (1) Staging a public or private protest of any kind.
- (2) Obstructing passage to or from a residence.
- (3) Promoting a strike or a boycott at a residence.
- (4) To intimidate or otherwise harass the resident.

(c) It is the purpose of this section to protect and preserve the home, inasmuch as the public health and welfare and the good order of the city require that citizens of the city enjoy a feeling of peace, well-being, and privacy in their homes at all times.

Sec. 16-29. - Loitering and prowling.

(a) It shall be unlawful for a person to be in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other

circumstances make it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the law enforcement officer failed to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.

(b) It shall be unlawful for a person aged 17 years or younger to be in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a law enforcement officer, refuses to identify himself, is present at such a place during school hours, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the law enforcement officer failed to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.

(c) It shall be unlawful for any parent guardian or other persona having the custody or control of any minor to permit, allow or encourage such minor to violate subsection (a) of this section.

(d) It shall be unlawful for the proprietor, manager or other person having charge or control of any public or other place to permit, allow or encourage any minor to violate subsection (a) of this section in such place.

Sec. 16-29.1. – Loitering for purpose of procuring others to engage in sexual acts for hire.

It shall be unlawful for any person to loiter in public for the purpose of soliciting or procuring others to engage in any sexual acts for hire.

Sec. 16-29.2. – Loitering for purposes of engaging in drug-related activity.

(a) *Legislative findings and intent.*

(1) The governing authority of the city finds that the increase throughout the city of loitering in public places for the purposes of unlawful drug-related activity, or in effect, "open air" drug dealing, has become extremely disturbing and disruptive to residents and businesses. This activity has contributed not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear and intimidation and disorder.

(2) Loitering for purposes of unlawful drug-related activity usually includes a dominate presence of those persons engaging in such activity by approaching pedestrians, encouraging the presence of vehicle and pedestrian traffic for the purpose of unlawful drug-related activity in and out of residential areas, to or from motor vehicles or in parking lots. Such presence carries with it an implicit threat to visitors and residents to avoid the

use of these public places. The avoidance of such places by law-abiding citizens leads to an increased opportunity for the unlawful criminal activity and furthers the decay of the neighborhood.

(3) The city has a strong interest in ensuring that citizens feel safe in their neighborhoods, in safeguarding the economic vitality of its business districts, and in preserving public places for their intended purposes.

(4) This section is not intended to limit any person from exercising their right to assemble or engage in any other constitutionally protected activity. This section applies to all persons with the requisite intent to induce another to engage in unlawful drug-related activity.

(b) It shall be unlawful for any person to loiter, as defined in this Chapter, in or near any thoroughfare, place open to the public, or any public or private place in order to induce, entice, solicit or procure another to engage in unlawful drug-related activity.

(1) "Unlawful drug-related activity" means conduct which constitutes an offense defined in O.C.G.A. Tit. 16, Ch. 13, as amended; conduct which constitutes complicity to commit such an offense by, for example, acting as a lookout; or conduct which constitutes conspiracy to commit such an offense.

(2) "Public place" means an area open to the public or exposed to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(c) A police officer who observes a person loitering under circumstances that provide the officer with a reasonable basis to believe unlawful drug-related activity is occurring or has occurred may detain the individual for the purpose of investigating whether the person is in violation of this section.

(d) A police officer may not detain an individual under this Code section unless both of the following elements are satisfied:

(1) The person engages in one (1) or more of the following behaviors:

a. The person passes or receives from a passer-by, bystander or person in a motor vehicle money, objects having characteristics consistent with controlled substances, and/or an envelope, bag or other container that could reasonably contain such objects or money;

b. The person conceals or attempts to conceal an object having characteristics consistent with controlled substances and/or an envelope, bag, clear plastic baggie or other container that could reasonably contain such objects;

c. The person flees or obscures himself upon seeing law enforcement officers;

d. The person communicates the fact that law enforcement officers are in the vicinity to another person in a manner that suggests that the communication is a warning; or

e. The officer observes the person in possession of any instrument or object that is designed or marketed as useful primarily for one (1) or more of the following purposes:

1. To inject, ingest, inhale or otherwise introduce marijuana or a controlled substance into the human body;
2. To enhance the effect of marijuana or a controlled substance on the human body;
3. To test the strength, effectiveness, or purity of marijuana or a controlled substance;
4. To process or prepare marijuana or a controlled substance for introduction into the human body;
5. To conceal any quantity of marijuana or a controlled substance; or
6. To contain or hold marijuana or a controlled substance while it is being introduced into the human body.

(2) One (1) of the following factors applies:

- a. The officer is aware that, within the preceding three (3) years, the person has been convicted of an offense defined in O.C.G.A. Tit. 16, Ch. 13, or of complicity to commit such an offense, or of conspiracy to commit such an offense with in the preceding three (3) years;
- b. The officer has knowledge of a specific reliable tip concerning unlawful drug-related activity at a specific location, and the person who is found loitering is doing so at a time, in a place or in a manner that is otherwise consistent with the details provided in the tip;
- c. The person is loitering in an area that has been designated a notorious drug-related activity area as defined in subsection (g), below;
- d. The person is in an area where he is prohibited by court order from being, and the officer is aware of the court order;
- e. The officer knows that the person has been previously convicted of loitering with the intention of engaging in unlawful drug-related activity under this section; or
- f. Any vehicle the person has approached or communicated through is registered to an individual who has been convicted of an unlawful drug-related activity in the previous three (3) years, and the officer is aware of that fact.

(e) No arrest may be made for a violation of this section unless the arresting officer first affords the person an opportunity to explain the person's presence and conduct, unless flight by the person or other circumstances make it impracticable to afford such an opportunity, and no one shall be convicted of violating this section if it appears at trial that the explanation given at the scene was true and disclosed a lawful purpose.

(f) If a police officer who detains a person pursuant to this Code section develops probable cause to believe that the person is in violation of this Code section, the officer may order the person

to immediately leave the location and to remain at least five hundred (500) feet away from the location for at least five (5) hours. In the event that person refuses to comply with such an order, the police officer may arrest the person and charge him with a violation of this section.

- (g) The City may, by written directive, clearly and publicly designate areas of the City that are frequently associated with excessive incidents of drug-related offenses, including offenses involving controlled substances, as defined in O.C.G.A. Tit. 16, Ch. 13, or marijuana, subject to any requirements of state law.

Sec. 16-30. - Preventing or disrupting lawful meetings, gatherings or processions.

It shall be unlawful for a person to knowingly prevent or disrupt a lawful meeting or gathering of the city council or any board, committee or instrumentality thereof or of the state to substantially obstruct or interfere with the meeting or gathering by physical action or verbal utterance. The term "lawful meeting or gathering" shall mean any such time and place where a quorum is present.

Sec. 16-31. - Unauthorized persons entering vacant buildings.

It shall be unlawful for any person to enter or to remain in a vacant or unoccupied building or on any portion of vacant land upon which such vacant building is located unless with permission of an authorized agent of said property; provided, such building or vacant property is prominently marked by a posted notice which is easily seen from a distance of at least fifty (50) feet that informs the public such property is vacant or unoccupied and unauthorized persons are prohibited from entering.

Sec. 16-32. - Discharge of weapons.

It shall be unlawful for any person to fire a gun, rifle, pistol, revolver, cannon, air rifle, firearm of any type or shoot a slingshot, crossbow or bow within the city, except in defense of a person or property. This section shall not apply to (a) any law enforcement officer while in the discharge of official duties and (b) any bow or crossbow hunter that holds a valid hunting permit issued by and who complies with the regulations of the Georgia Department of Natural Resources with respect to deer hunting within DeKalb County.

Sec. 16-33. - Reckless operation of motor vehicle upon parking facility or walkway.

No person shall operate a motor vehicle upon any parking facility, public or private, vehicle-access or pedestrian walkway of any parking facility by sudden starting, stopping or turning so as to endanger the person or property of another.

Sec. 16-34. - Creating hazardous or offensive condition.

No person shall create a hazardous or physically offensive condition by an act which serves no legitimate purpose.

Sec. 16-35. - Halting or impeding flow of traffic.

No person shall congregate with another or others in or on any public right-of-way or place so as to halt or impede the flow of vehicle or pedestrian traffic after having been directed to clear such public right-of-way or place by a police officer or any other authorized law enforcement officer.

Sec. 16-36. – Civil Trespass.

No person shall knowingly and without authority enter upon the land or premises of another person after receiving, prior to such entry, notice from the owner, rightful occupant, or authorized representative of the owner or rightful occupant that such entry is forbidden. Posted “no solicitation” signs shall be deemed adequate notice.

Secs. 16-37 - 16-50. – Reserved.

DIVISION 2. – DRUG AND ALCOHOL-RELATED OFFENSES

Sec. 16-51. - Public possession or consumption.

(a) Alcohol consumption near package stores. It shall be unlawful for any person to open or to consume all or any part of any type of alcoholic beverage within 100 feet of any retail store where alcoholic beverages are sold in package form or within the boundary lines of the property on which such retail store is located, whichever constitutes the greater distance, unless otherwise permitted by Chapter 4.

(b) Drinking in public.

(1) It shall be unlawful for any person to drink any vinous, malt or other alcoholic beverage while on any streets, sidewalks, alleyways, parking areas or other open areas operated and controlled by the city. This subsection does not apply to parks.

(2) Subsection (1) shall not apply to gatherings or activities for which a temporary liquor license has been issued by the city, subject to any conditions attached to the issuance of the permit.

Sec. 16-52. - Public intoxication.

It shall be unlawful for any person to be disorderly while under the influence of illicit drugs, alcohol, concentrated vapors, or inhalants on the streets, sidewalks or other public places within the corporate limits of the city. Any person who acts in a reckless manner so as to create an unreasonable risk to himself, to others or to property in the vicinity while under the influence of alcohol or drugs is in violation of this section. The condition of intoxication or incapacitation must

be outwardly manifested by boisterousness, public indecency as defined by this Chapter, indecent acts, vulgar, profane, or loud and unbecoming language, unconsciousness, disorientation or the inability to care for his or her own needs or recognize obvious dangers.

Sec. 16-53. - Furnishing, purchasing, or possession of alcoholic beverages by person less than 21 years of age.

(a) Except as otherwise authorized by law:

(1) No person directly or through another person shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person less than 21 years of age;

(2) No person less than 21 years of age shall purchase, drink or knowingly possess any alcoholic beverages;

(3) No person less than 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage;

(4) No person shall knowingly or intentionally act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person less than 21 years of age;

(5) No person less than 21 years of age shall misrepresent such person's identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverages; or

(6) No person shall keep or maintain a place where persons less than 21 years of age are allowed and permitted to come and purchase, drink or possess any alcoholic beverage.

(b) The prohibitions contained in subsections (a)(1), (a)(2) and (a)(4) of this section shall not apply with respect to:

(1) The sale, purchase or possession of alcohol beverages for consumption for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state;

(2) The sale, purchase or possession of alcohol beverages for consumption at a religious ceremony;

(3) The possession of alcoholic beverages for consumption by a person under 21 years of age when the parent or guardian of the person less than 21 years of age gives the alcoholic beverage to the person and when possession is in the home of the parent or guardian and such parent or guardian is present;

(4) The sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's

license, or an identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104. The term "proper identification" shall not include a birth certificate.

(c) If such conduct is not otherwise prohibited pursuant to O.C.G.A. § 3-3-24, nothing contained in this section shall be construed to prohibit any person less than 21 years of age from:

(1) Dispensing, serving, selling or handling alcoholic beverages as a part of employment in any licensed establishments;

(2) Being employed in any establishment in which alcoholic beverages are distilled or manufactured; or

(3) Taking orders for and having possession of alcoholic beverages as a part of employment in a licensed establishment.

(d) Testimony by any person under 21 years of age, when given in an administrative or judicial proceeding against another person for violation of any provision of this section, shall not be used as an admission in any administrative or judicial proceedings brought against such testifying person less than 21 years of age.

(e) Any person convicted of violating any prohibition contained in subsection (a) of this section shall be punished by a fine not to exceed \$1,000.00 or imprisonment for not more than 180 days, or both; except that any person convicted of violating subsection (a)(2) of this section shall be punished by not more than 30 days imprisonment or a fine of not more than \$300.00 or both. Any defendant charged under this section shall be entitled upon request to have the case against such defendant transferred to the court having general misdemeanor jurisdiction in the county in which the alleged offense occurred. Any person charged with a second or subsequent offense under this section shall be punished as for a misdemeanor of a high and aggravated nature in the court having general misdemeanor jurisdiction in the county in which the alleged offense occurred.

(f) Whenever any person who has not been previously convicted of any offense under this section or under any other law of the United States or any other state relating to alcoholic beverages pleads guilty to or is found guilty of a violation of subsection (a)(2) or (a)(3) of this section, the court, without entering a judgment of guilt and with the consent of such person, may defer further proceedings and place such person on probation upon such reasonable terms and conditions as the court may require.

(1) The terms of probation shall preferably be such as to require the person to undergo a comprehensive rehabilitation program, including, if necessary, medical treatment, not to exceed three years, designed to acquaint such person with the ill effects of alcohol abuse and to provide such person with knowledge of the gains and benefits which can be achieved by being a good member of society.

(2) Upon violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed accordingly.

(3) Upon fulfillment of the terms and conditions of probation, the court shall discharge such person and dismiss the proceedings against such person. Discharge and dismissal under this subsection shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this subsection or for purposes of disqualifications or

disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this subsection may occur only once with respect to any person.

(g) Unless the officer has reasonable cause to believe such person is intoxicated, an officer may arrest, by issuance of a citation, a person accused of violating only subsection (a)(2) of this section. The citation shall enumerate the specific charges against the person and either the date upon which the person is to appear and answer the charges or a notation that the person will be later notified of the date upon which the person is to appear and answer the charges. If the person charged shall fail to appear as required, the judge, having jurisdiction of the offense may issue a warrant or other order directing the apprehension of such person and commanding that such person be brought before the court to answer the charges contained within the citation and the charge of such person's failure to appear as required. Nothing in this subsection shall be construed to invalidate an otherwise valid arrest by citation of a person who is intoxicated.

Sec. 16-54. - Marijuana possession.

(a) It shall be unlawful for any person to possess or have under his control within the city one ounce or less of marijuana.

(b) For purposes of this section, the term "marijuana" means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, and shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized samples of seeds of the plant which are incapable of germination.

(c) Exceptions. The appropriate use of legally prescribed marijuana is not prohibited. "Legally prescribed" shall mean that the individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization.

(d) Any person charged with a violation of this section shall be entitled, upon request, to have the case against him transferred to the State Court of DeKalb County, to be prosecuted and tried as a misdemeanor in that court.

Secs. 16-55 – 16-70. – Reserved.

DIVISION 3. – OFFENSES INVOLVING SCHOOLS

Sec. 16-71. - Unauthorized persons entering school buildings.

No person shall enter or remain in any public, private or parochial school building between the hours of 7:30 a.m. and 6:00 p.m. on days that school is in session (or until 10:00 p.m. at those schools which have extended sessions), who is not a regularly enrolled student, teacher or employee at that school, unless the person shall have first and immediately proceeded to the

administrative offices and identified themselves to the principal or the principal's agent and receives permission to remain on the premises.

Sec. 16-72. - Unauthorized persons not to remain in school buildings or on school grounds after being requested to leave.

It shall be unlawful for any person to enter and remain in any public, private, or parochial school or on the surrounding school grounds after being directed to leave by the principal of the school or by someone with lawful authority.

Sec. 16-73. - Creating a disturbance.

(a) It shall be unlawful for any person to create a disturbance in any public, private or parochial school or on the surrounding school grounds lawfully used for school activities while such recreational areas are in use or other activities are in progress thereon.

(b) A disturbance, for purposes of this section, shall be defined as any act which may be reasonably expected to interfere with the activities within the school or school activities on the school grounds or fields while such activities are in progress thereon.

Sec. 16-74. - Operation of motorized vehicles on school property.

The operation of motorized vehicles of any nature in or on any yard, campus, playing field or open area of any public school, college or institution in the city, except on those areas designated by school authorities for use of motorized vehicles, is prohibited.

Secs. 16-75 – 16-80. – Reserved.

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.

2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause

or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.
- 7.

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

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk

631

632



CITY COUNCIL AGENDA ITEM

SUBJECT: A Resolution Authorizing the Establishment of the SPLOST Citizens Oversight Advisory Committee of the City of Stonecrest

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

Date Submitted: 09/28/2018 Work Session: 10/03/2018 Council Meeting: 10/15/2018

SUBMITTED BY: Mayor Lary

PURPOSE: This is a Resolution to establish a citizen oversight advisory committee for SPLOST in the City of Stonecrest.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF THE SPLOST
CITIZENS OVERSIGHT ADVISORY COMMITTEE OF THE CITY OF STONECREST,
GEORGIA**

WHEREAS, the City of Stonecrest was created by Senate Bill 208, passed in the Georgia General Assembly during the 2016 Session and subsequently confirmed by referendum;

WHEREAS, Senate Bill 208 provided a charter for the City of Stonecrest (the "City Charter");

WHEREAS, Section 1.03(b)(42) of the City Charter grants the City the power to exercise and enjoy all other powers, functions and rights necessary or desirable to promote the general welfare of the City and its inhabitants;

WHEREAS, Section 2-137 of Chapter 2 of the Code of the City of Stonecrest, Georgia, provides that the Mayor may establish advisory committees;

WHEREAS, the citizens of DeKalb County voted on November 7, 2017, to impose a Special Purpose Local Option Sales Tax (SPLOST) to be spent on capital improvements for the use and benefit of DeKalb County and qualified municipalities within the DeKalb County;

WHEREAS, the Mayor and City Council of the City of Stonecrest have determined that it is in the best interest of the City and its citizens to establish an advisory committee known as the SPLOST Citizens Oversight Advisory Committee of the City of Stonecrest, Georgia, for the purpose of providing transparency and accountability to the citizens of the City of Stonecrest concerning the use of SPLOST funds.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Stonecrest, Georgia, as follows:

**SECTION I.
ESTABLISHMENT OF THE CITIZENS SPLOST OVERSIGHT ADVISORY
COMMITTEE AND AUTHORIZATION**

1. The Mayor and City Council of the City of Stonecrest affirm that the Special Purpose Local Option Sales Tax is the City's opportunity to affect substantive improvements that connect our citizens and starts to transform our City into one defined by the collective pursuit of a high quality of life for all residence. To further help accomplish this vision, there is hereby established the SPLOST Citizens Oversight Advisory Committee of the City of Stonecrest, Georgia (hereinafter referred to as the "SPLOST Committee").

SECTION II.

MISSION AND DUTIES

1. The mission of the SPLOST Committee is to provide transparency and accountability to the citizens of the City of Stonecrest from the 2018 SPLOST.
2. The purpose of the SPLOST Committee is to ensure:
 - a. That revenue collected under the SPLOST is spent in accordance with SPLOST law;
 - b. That funds from the SPLOST are well managed and used efficiently;
 - c. That projects funded by the Stonecrest portion of the SPLOST are equitable, appropriately prioritized, and well distributed throughout the City;
 - d. To provide as necessary and appropriate advice, reviews, reports and recommendations to the public, City Manager, Mayor and City Council on SPLOST spending, budgets, projects and legislation.
3. Members must attend two-thirds (2/3) of the SPLOST Committee meetings in a calendar year. Failure to do so warrants removal from the SPLOST Committee.

**SECTION III.
MEMBERSHIP**

1. The SPLOST Committee shall be composed of twelve (12) members, one (1) of whom shall be the City Manager or his designee. The City Manager or his designee shall oversee the meetings and shall be an ex-officio, non-voting member of the SPLOST Committee.
2. Except as provided in subsection (3) of this Section III, the Mayor shall establish qualifications for members of the SPLOST Committee. Each committeeperson shall be nominated by the Mayor and approved by the City Council.
3. Each SPLOST Committee member must be either a resident of the City or an owner or officer of a business domiciled in the City. Should the committee member move out of the City or no longer be an owner or an officer of a business domiciled in the City, he/she may remain active until the Mayor and City Council appoint his/her replacement.

**SECTION IV.
TERMS**

1. Each member shall serve for a term of four (4) years.
2. Members filling vacancies shall serve the remainder of the term to which they were appointed. A consecutive appointment is permissible. Members whose terms expire shall continue to serve until a replacement is appointed or a consecutive appointment is made.
3. Any member may be removed with or without cause by the Mayor.

**SECTION V.
COMPENSATION**

SPLOST Committee members may serve without compensation. Reasonable expenses for travel may be reimbursed and SPLOST Committee members may be compensated pursuant to a policy to be established by the City Manager and approved by the City Council.

**SECTION VI.
QUORUM**

A majority of the actual number of SPLOST Committee members establishes a quorum. Any action taken requires a majority of affirmative votes of the quorum present.

**SECTION VII.
GOVERNANCE**

1. The SPLOST Committee shall adopt its rules of procedure, which shall be substantially similar to the rules of procedure of the City Council.
2. The SPLOST Committee shall set its own meeting schedule and establish the meeting agendas.
3. The date and time of each meeting as well as agenda items to be considered shall be publicized in the same manner as meetings of the Mayor and City Council.
4. All meetings shall be open to the public and all records maintained by the SPLOST Committee shall be public records unless expressly exempted by a provision of the State's Open Records Act.
5. At each meeting, the public shall be granted time for public comment.
6. The SPLOST Committee shall elect a chairman to conduct meetings and a vice chairman to conduct meetings in the absence of the chairman. Elections shall be held at the first regular meeting of the calendar year. The chairman shall serve for one (1) year or until re-elected or a successor is elected. The vice chairman shall serve for one (1) year or until re-elected or a successor is elected. The SPLOST Committee shall select one of its members to be the secretary.
7. The SPLOST Committee shall keep minutes of its proceedings, showing the vote of each member upon each question, and records of its examinations and other official actions, all of which shall be filed in the office of the City Clerk. Copies of the minutes shall be sent to the Mayor and each member of the City Council.

8. The SPLOST Committee will report either in person or in writing to the Mayor and City Council at the first regular City Council meeting every other month, commencing with the first regular City Council meeting in January, 2019.

**SECTION VIII.
INITIAL MEMBERS**

The initial members of the SPLOST Committee shall be as follows:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. City Manager, or his designee, *ex officio and non-voting member*.

This Resolution shall be effective immediately upon its adoption.

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

Approved:

Jason Lary, Sr., Mayor

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Provide for the Creation of the Stonecrest Youth Council and For Other Purposes

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

Work Session 10/03/2018

Council Meeting 10/15/2018

SUBMITTED BY: Council Member Adoma and Mayor Lary

PURPOSE: This item is to create the City of Stonecrest Youth Council.

HISTORY: This item was heard at the October 3, 2018 Work Session.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, TO PROVIDE FOR
THE CREATION OF THE STONECREST YOUTH COUNCIL AND FOR OTHER
PURPOSES**

WHEREAS, the City of Stonecrest was created by Senate Bill 208, passed in the Georgia General Assembly during the 2016 Session and subsequently confirmed by referendum;

WHEREAS, Senate Bill 208 provided a charter for the City of Stonecrest (the "City Charter");

WHEREAS, Section 1.03(b)(42) of the City Charter grants the City the power to exercise and enjoy all other powers, functions and rights necessary or desirable to promote the general welfare of the City and its inhabitants; and

WHEREAS, the City Council desires to establish a Youth Council to provide an opportunity for the youth of the City of Stonecrest to build leadership skills, learn about civic responsibility, gain a better understanding of municipal government, prepare for a lifetime of public and community service and acquire a greater knowledge of and appreciation for the American political system.

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

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding a Division 3 of Article IV of Chapter 2 – Administration that reads as follows:

DIVISION 3. – STONECREST YOUTH COUNCIL.

Sec. 2-____. – Creation.

There is hereby created a board to be known as the Stonecrest Youth Council.

Sec.2-____. - Duties and responsibilities.

The Stonecrest Youth Council shall have the duty and responsibility to:

1. Evaluate and review problems facing youth in the city.
2. Facilitate neighborhood meetings with youth to discuss problems, needs, recommendations for community improvements.
3. Meet regularly with the mayor and city council to share ideas and discuss issues, concerns, and needed improvements.
4. Attend city council meetings and participate in vision and goal sessions.

- 46
47 5. Present recommended projects and programs to the city council and city manager.
48
49 6. Assist in planning youth/recreation activities.
50
51 7. Evaluate and advise the city council and/or city manager on issues forwarded to the
52 youth council for advice.
53

54 **Sec. 2-__ - Membership.**
55

- 56 1. The youth council shall be composed of [_____] members serving as an advisory
57 youth council to City of Stonecrest mayor and city council.
58
59 2. Youth council members must be city residents who are actively enrolled in a public,
60 private, or home school, in grades ninth through twelve, between the ages of 14-19.
61
62 3. Youth council members shall be chosen from applicants who express an interest in
63 public service during the application process which shall be between [August 15] and
64 [September 15] each year.
65
66 4. Youth council members shall be selected by the Stonecrest Youth Council
67 Committee.
68
69 5. Selection of youth council members shall occur on or before [September 30] of each
70 year, and members will be sworn in at the following [October] meeting of the city
71 council.
72
73 6. Youth council members shall serve a term of one (1) year.
74
75 7. Irregular vacancies on the youth council shall be filled as they occur and regular
76 vacancies shall be filled by appointment in [September or October] of each year.
77
78 8. Notwithstanding any provision to the contrary, a member may be removed by a
79 majority vote of mayor and city council.
80

81 **Sec. 2-__ - Compensation.**
82

83 Youth council members shall serve without compensation.
84

85 **Sec. 2-__ - Election of Officers.**
86

87 The youth council shall elect a chairman to conduct meetings and a vice chairman to
88 conduct meetings in the absence of the chairman. Elections shall be held at the first regular
89 meeting after selection by the Stonecrest Youth Council Committee.
90

Sec. 2-___. - Meetings and records.

The youth council shall adopt its rules of procedures, which shall be substantially similar to the rules of procedures of the city council.

The youth council shall hold at least one regular meeting per quarter [per month?], with the option to meet more often as needed or desired.

The youth council shall maintain a record of its activity which shall be a public record and shall be kept by the office of the city clerk.

All meetings shall be public.

Sec.2-___. - Absences from meetings.

Absences from three (3) consecutive regular meetings of the youth council shall cause a member to be removed from their seat, unless such absence is excused by a majority vote of the board, with such excuse duly entered upon its minutes.

Secs. 2-___.—2-___, - Reserved.

Section 3:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,

sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

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

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Provide for the Creation of the Stonecrest Youth Council Advisory Committee and For Other Purposes

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

Work Session 10/03/2018

Council Meeting 10/15/2018

SUBMITTED BY: Council Member Adoma and Mayor Lary

PURPOSE: This item is to create the City of Stonecrest Youth Council Advisory Committee.

HISTORY: This item was heard at the October 3, 2018 Work Session.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, TO PROVIDE FOR
THE CREATION OF THE STONECREST YOUTH COUNCIL ADVISORY
COMMITTEE AND FOR OTHER PURPOSES**

WHEREAS, the City of Stonecrest was created by Senate Bill 208, passed in the Georgia General Assembly during the 2016 Session and subsequently confirmed by referendum;

WHEREAS, Senate Bill 208 provided a charter for the City of Stonecrest (the "City Charter");

WHEREAS, Section 1.03(b)(42) of the City Charter grants the City the power to exercise and enjoy all other powers, functions and rights necessary or desirable to promote the general welfare of the City and its inhabitants;

WHEREAS, the Mayor and City Council desire to establish the Stonecrest Youth Council to provide an opportunity for the youth of the City of Stonecrest to build leadership skills, learn about civic responsibility, gain a better understanding of municipal government, prepare for a lifetime of public and community service and acquire a greater knowledge of and appreciation for the American political system; and

WHEREAS, the Mayor and City Council desire to establish a Youth Council Advisory Committee made up of adult volunteers to assist the City and its staff in creating a program and curriculum for the aforementioned Stonecrest Youth Council and to provide oversight and management of the program.

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

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding a Division 2 of Article V - Advisory Committees of Chapter 2 – Administration that reads as follows:

DIVISION 2. - STONECREST YOUTH COUNCIL COMMITTEE.

Sec. 2-145. – Creation.

There is hereby created the City of Stonecrest Youth Council Advisory Committee which shall be referred to as the Stonecrest Youth Council Advisory Committee.

Sec. 2-146. - Duties and responsibilities.

The Stonecrest Youth Council Advisory Committee shall have the following powers and duties:

1. Prepare and recommend for adoption each year by the city a curriculum and budget for the Stonecrest Youth Council program.

- 43 2. Review, evaluate and select youth candidates for participation in the program.
- 44 3. Monitor and provide oversight of the Stonecrest Youth Council program throughout the
- 45 year.

46

47 **Sec. 2-147. - Membership.**

48

- 49 1. Composition. The Stonecrest Youth Council Advisory Committee shall be composed of a
- 50 maximum of [_____] members, one (1) of whom shall be the city manager or his designee
- 51 which is an ex-officio, non-voting member of the committee.
- 52
- 53 2. Each member shall be nominated by the mayor and approved by the city council.
- 54
- 55 3. Term of Office. All members shall serve until the succeeding end of the city's fiscal year.
- 56 Consecutive terms are permissible. Members whose terms expire shall continue to serve
- 57 until a replacement is appointment or a consecutive appointment is made.
- 58
- 59 4. Vacancies. An appointment to fill any vacancy shall be for the remainder of the
- 60 unexpired term of office. A consecutive appointment is permissible.
- 61
- 62 5. Removal. Notwithstanding any provision to the contrary, a member may be removed for
- 63 cause by a vote of a majority of the city council in accordance with state law.
- 64
- 65 6. Qualifications. In order to be qualified, all members shall either be a resident of the city
- 66 or an owner or officer of a business domiciled in the city. Additionally, each member
- 67 shall pass a background examination. Should a member move out of the city or no longer
- 68 be an owner or an officer of a business domiciled in the city, he/she may remain active
- 69 until the mayor and council appoint his/her replacement.
- 70

71 **Sec. 2-148. - Compensation.**

72

73 Committee members shall serve without compensation.

74

75 **Sec. 2-149. - Quorum.**

76

77 A majority of the actual number of Stonecrest Youth Council Advisory Committee members

78 establishes a quorum. Any action taken requires a majority of affirmative votes of the quorum

79 present.

80

81 **Sec. 2-150. - Governance.**

82

- 82 1. The Stonecrest Youth Council Committee shall adopt its rules of procedures, which shall
- 83 be substantially similar to the rules of procedures of the city council.
- 84

2. The Stonecrest Youth Council Committee shall set its own meeting schedule and establish the meeting agendas.
3. The date and time of each meeting as well as agenda items to be considered shall be publicized in the same manner as meetings of mayor and council.
4. All meetings at which official action is taken shall be open to the public and all records maintained by the committee shall be public records, unless expressly excepted by a provision of the Georgia Open Records Act, O.C.G.A. Section 50-18-70 et seq.
5. The committee shall keep minutes of its formal proceedings, showing the vote of each member upon each question and records of its examinations and other official actions, all of which shall be filed in the office of the city clerk. Copies of the minutes shall be sent to the mayor and each member of the city council. The minutes of the meetings shall be a public record.
6. The committee shall elect at its first meeting of the calendar year one of its members to serve as chairperson and one to service as vice chairperson for terms of one (1) year. The committee shall also elect a secretary to serve as the official record keeper of the committee.
7. Members must attend two-thirds (2/3) of meetings in a calendar year. Failure to do so warrants removal from the committee.
8. Expenditures of the committee, if any, shall be within the amounts appropriated for the purpose intended by the mayor and council during the annual budgeting process.

Secs. 2-____.—2-____. - Reserved.

Section 3:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

- 127
128 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
129 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
130 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is
131 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,
132 or unenforceability shall, to the greatest extent allowed by law, not render invalid,
133 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,
134 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed
135 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the
136 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
137
138 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith
139 are hereby expressly repealed.
140
141 5. The within ordinance shall become effective upon its adoption.
142
143 6. The provisions of this Ordinance shall become and be made part of The Code of the City
144 of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to
145 accomplish such intention.

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

147 Approved:
148
149

150 _____
151 Jason Lary, Sr., Mayor
152

153 As to form:
154
155

156 _____
157 City Attorney
158

159 Attest:

160 _____
161 Brenda James, City Clerk
162
163



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance Creating the Historic and Cultural Landmarks Commission of the City of Stonecrest

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

Work Session 07/16//2018

Council Meeting 10/15/2018

SUBMITTED BY: Council Members Adoma & Rob Turner

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, CREATING THE
HISTORIC AND CULTURAL LANDMARKS COMMISSION OF THE CITY OF
STONECREST, GEORGIA**

WHEREAS, Section 1.03(b)(3) of the City Charter provides that the City may regulate and license the erection and construction of buildings and all other structures; and

WHEREAS, Section 1.03(b)(42) of the of the City Charter grants the City the power to exercise and enjoy all other powers, functions and rights necessary or desirable to promote the general welfare of the City and its inhabitants; and

WHEREAS, O.C.G.A. 44-10-20 *et seq.* is known as the Georgia Historic Preservation Act and provides that municipalities electing to enact an ordinance to provide for the protection, enhancement, perpetuation, or use of historic properties or historic districts shall establish or designate a historic preservation commission; and

WHEREAS, the Mayor and City Council of the City of Stonecrest find it to be in the best interest of the City and its citizens to provide for the protection, enhancement, perpetuation, or use of historic properties or historic districts and desire to establish a historic preservation commission to be known as the Historic and Cultural Landmarks Commission of the City of Stonecrest, Georgia.

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

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding a Chapter 13.5 – Historic Preservation, that reads as follows:

CHAPTER 13.5 – HISTORIC PRESERVATION

Sec. 13.5-1. - Purpose.

In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the City of Stonecrest is among its most valued and important assets and that the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people;

In order to stimulate revitalization of the business districts and historic neighborhoods and to protect and enhance local historic and aesthetic attractions to tourists and thereby promote and stimulate business;

In order to enhance the opportunities for federal or state tax benefits under relevant provisions of federal or state law; and

In order to provide for the designation, protection, preservation and rehabilitation of historic properties and historic districts and to participate in federal or state programs to do the same;

The Stonecrest city council hereby declares it to be the purpose and intent of this chapter to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, objects, landscape features and works of art having special historical, cultural or aesthetic interest or value, in accordance with the provisions of this chapter.

Sec. 13.5-2. - Definitions.

This article specifically adopts and incorporates the definitions contained in O.C.G.A. Section 44-10-22 of terms used within this chapter as defined in that code section, including but not limited to, the following:

Building means a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and a barn.

Certificate of appropriateness means a document approving a proposal to make a material change in the appearance of a designated historic property or of a structure, site, or work of art located within a designated historic district. The certificate of appropriateness must be obtained from a commission before such material change may be undertaken.

Commission means the Historic and Cultural Landmarks Commission of the City of Stonecrest, Georgia, created or established by O.C.G.A. Section 44-10-24, created within this chapter.

Designation means a decision by the governing authority of the City of Stonecrest to designate a property or district as a "historic property" or as a "historic district" and thereafter to prohibit all material changes, except as provided herein, in appearance of such property or within such district prior to the issuance of a certificate of appropriateness by the commission.

Exterior architectural features means the architectural style, general design, and general arrangement of the exterior of a building or other structure, including, but not limited to, the kind or texture of the building material; the type and style of all windows, doors, and signs; and other appurtenant architectural fixtures, features, details, or elements relative to the foregoing.

Exterior environmental features means all those aspects of the landscape or the development of a site which affect the historical character of the property.

Governing authority means the elected mayor and city council of the City of Stonecrest, Georgia.

Historic district means a geographically definable area, urban or rural, which contains structures, sites, works of art, or a combination thereof which:

- (1) Have special character or special historical or aesthetic interest or value;
- (2) Represent one or more periods or styles of architecture typical of one or more eras in the history of the city, county, state, or region; and

- (3) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city.

Historic property means a structure, site or work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of its value to the municipality, county, state, or region for one or more of the following reasons:

- (1) It is an outstanding example of a structure representative of its era;
- (2) It is one of the few remaining examples of a past architectural style;
- (3) It is a place or structure associated with an event or person of historic or cultural significance to the city, county, state, or region; or
- (4) It is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city, county, state, or region.

Material change in appearance means a change that will affect the exterior architectural features of a historic property or of any building, structure, site or work of art within a historic district, and may include any one or more of the following but shall not include exterior paint or paint color alterations:

- (1) A reconstruction or alteration of the size, shape, or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details, or elements;
- (2) Demolition of a historic property;
- (3) Commencement of excavation;
- (4) A change in the location of advertising visible from the public right-of-way on any historic property; or
- (5) The erection, alteration, restoration or removal of any building or other structures within a designated historic district, including walls, fences, steps, and pavements, or other appurtenant features, except exterior paint alterations.

Ordinance of designation means an ordinance formally proposed by the commission for consideration by the governing authority after the commission has studied a proposed historic property or historic district and determined that they appear to meet the criteria for designation established by this chapter.

Person includes any natural person, corporation or unincorporated association.

Sec. 13.5-3. – Historic and Cultural Landmarks Commission – Creation and appointment.

There is hereby created a commission whose title shall be the “Historic and Cultural Landmarks Commission of the City of Stonecrest”.

The commission shall be part of the planning functions of the city.

The commission shall consist of six (6) members, each of whom shall serve a maximum of two (2) consecutive three-year terms. All members shall be residents of the city and shall be

persons who have demonstrated special interest, experience or education in the preservation of historic resources, history or architecture. At least a majority of the members shall be licensed architects, landscape architects or interior designers or professionals in the fields of history, architectural history, planning or archaeology.

Commission members shall be appointed by the mayor, subject to confirmation by the city council. Should a member be unable to complete a term of office, the governing authority shall fill the vacancy for the remainder of the unexpired term in the same manner as making initial appointments. An individual appointed to serve the remainder of an unexpired term shall be eligible to be reappointed for an additional consecutive three-year term.

In order to achieve staggered terms, initial appointments shall be determined by lottery as follows: two (2) members for one (1) year; two (2) members for two (2) years; and three (3) members for (3) years.

Members shall serve until their successors are appointed and qualified. Members of the commission shall serve without compensation but may be reimbursed for reasonable expenses incurred.

Any member may be removed for cause by vote of a majority of the councilmembers.

Sec. 13.5-4. – Same – Powers and duties.

The commission shall be authorized to:

- (1) Prepare and maintain an inventory of all property within the City of Stonecrest having the potential for designation as historic property;
- (2) Recommend to the governing authority specific places, districts, sites, buildings, structures or works of art to be designated by ordinance as historic properties or historic districts which ordinance shall be in accordance with the provisions of this chapter and O.C.G.A. Section 44-10-26;
- (3) Review applications for certificates of appropriateness, and grant or deny same in accordance with the provisions of this chapter and O.C.G.A. Section 44-10-28;
- (4) Recommend to the governing authority that the designation of any place, district, site, building, structure, object or work of art as a historic property or as a historic district be revoked or removed;
- (5) Restore or preserve any historic properties acquired by the City of Stonecrest, with the approval of the governing authority;
- (6) Recommend to the governing authority the acquisition by the City of Stonecrest of conservation easements in accordance with the provisions of state law;
- (7) Conduct educational programs on historic properties located within the boundary of the city and on general historic preservation topics;

- (8) Make such investigations and studies of matters relating to historic preservation as the governing authority or the commission itself may, from time to time, deem necessary or appropriate;
- (9) Seek out local, state, federal and private funds for historic preservation and make recommendations to the governing authority concerning the most appropriate uses of any funds acquired;
- (10) Consult with historic preservation experts in the Division of Historic Preservation of the Department of Natural Resources or its successor and the Georgia Trust for Historic Preservation, Inc.;
- (11) Submit to the Division of Historic Preservation of the Department of Natural Resources or its successor a list of historic properties and historic districts pursuant to this chapter and O.C.G.A. Section 44-10-26.

Sec. 13.5-5. – Same – Meetings and quorum.

A quorum shall consist of a majority of the members.

The commission shall meet at least monthly unless the chair determines that insufficient business warrants holding a meeting, in which case the commission shall meet the following month.

Commission members must attend two-thirds of meetings in a calendar year. Failure to do so warrants removal from the body.

Sec. 13.5-6. – Same – Governance.

The commission shall adopt its rules of procedure, which shall be substantially similar to the rules of procedure of the city council and which do not conflict with O.C.G.A. Title 44, Chapter 10, which shall only be effective after submittal to and if approved by the city council.

The commission shall provide for the time and place of its regular meetings and a method for calling of special meetings.

The date and time of each meeting as well as agenda items to be considered shall be publicized in the same manner as meetings of the mayor and council.

Annually, at its first meeting of the calendar year, the members shall elect one of its members to serve as chairperson and one member to serve as vice chairperson. Additionally, the members shall also appoint a secretary to serve as the official record keeper.

All meetings of the commission shall be open to the public, and all records maintained by the commission shall be public records unless expressly exempted by a provision of the Georgia Open Records Act, O.C.G.A. 50-18-70 et seq.

The commission shall keep minutes of its proceedings, showing the vote of each member upon each question, and records of its examinations and other official actions, all of which shall be filed in the office of the city clerk. Copies of the minutes shall be sent to the mayor and each

city councilmember. The minutes of the meetings shall be a public record. This section shall not be construed as prohibiting closed sessions when permitted by the state open meetings and open records acts.

Sec. 13.5-7. - Conflict of Interest.

No commission member shall participate in the discussion on or vote on any matter in which he or she may have a conflict of interest as defined within the City Charter or Code or Official Code of Georgia Annotated.

Sec. 13.5-8. - Designations.

Designation of places, districts, sites buildings, structures, or works of art or historic properties or historic districts shall be by ordinance adopted by the governing authority, which shall be subject to the following requirements:

- (1) *Studies.* The governing authority, a historical society, neighborhood organization, property owner(s) or resident(s), may request that the commission initiate studies of individual properties or districts to determine whether they meet the criteria specified in this section of designation as historic properties or historic districts. The commission may also initiate such a study or studies on its own initiative based on a review of the city's historic resources. Upon determining that such recommended properties or districts meet the criteria for designation, the commission may submit an ordinance for designation to the governing authority in accordance with the provisions of this section.
- (2) *Reports.* The commission shall prepare a report prior to submitting an ordinance for designation to the governing authority. The report shall contain, as a minimum:
 - a. A physical description of the property(ies) and/or district(s) proposed for designation;
 - b. A statement of the historical, cultural, architectural and/or aesthetic significance of the same;
 - c. A map showing district boundaries and classification (e.g. historic, non-historic, intrusive and other significant categories) of individual properties therein, or showing boundaries of individual historic properties; and
 - d. Representative photographs.

These reports shall be used to educate the community and to provide a permanent record of the designation.

- (3) *Criteria.* The commission shall consider, but not be limited to, the following criteria when considering recommendations to the governing authority for designation of historic properties or districts.
 - a. Historic properties whether they:
 1. Are an outstanding example of a structure representative of its era;

2. Are one of the few remaining examples of a past architectural style;
 3. Are a place or structure associated with an event or person of historic or cultural significance to the city, county, state or region; or
 4. Are a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city, county, state or region.
- b. Historic districts whether they:
1. Have special character or special historic or aesthetic interest or value;
 2. Represent one or more periods or styles of architecture typical of one or more eras in the history of the city, county, state or region; and
 3. Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city.
- (4) *Notice to state.* No less than thirty (30) days prior to making a recommendation on any ordinance designating a property or district as historic and at least fifteen (15) days prior to the public hearing for such designation, the commission must submit the report, required in this Sec. 13.5-8(2) above, to the Historic Preservation Division of the Department of Natural Resources or its successor for review and comment, as required by O.C.G.A. Section 44-10-26(b).
- (5) *Ordinance.* Any ordinance designating any property as historic property or any district as a historic district shall:
- a. Require that the designated property or district be shown on the official zoning map of the city and be kept by the city as a public record to provide notice of such designation in addition to other notice requirements specified by this section;
 - b. Describe each property to be designated, set forth the name or names of the owner or owners of the property and require that a certificate of appropriateness be obtained from the commission prior to any material change in appearance of the designated property; and
 - c. Include a description of the boundaries of such district, list each property located therein, set forth the name or names of the owner or owners of each such property and require that a certificate of appropriateness be obtained from the commission prior to any material change in appearance of any structure, site or work of art located within the designated historic district.
- (6) *Notice and hearing.* The commission and the governing authority shall hold a public hearing on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published in at least three (3) issues of the principal newspaper of local circulation; and written notice of the hearing shall be mailed to all owners and occupants of such properties. All such notices shall be published or mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing. A notice mailed to the last known owner of the property shown on the city tax digest and a notice mailed to the address of the property on which

residences or businesses are located to the attention of the occupant shall constitute legal notification to the owner and occupant under this chapter.

This published notice shall state the time, date, place and purpose of the hearing. This published notice shall also include the location or boundaries of the property or properties, the existing zoning classification and historic designation, if any, and a statement that the property could be proposed for historic designation during the proposal process.

The commission shall give notification of the proposal by mail to all abutting property owners as shown by DeKalb County tax records. Such notification shall be mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing and shall include a description of the application and the date, time and place of the public hearing.

The commission shall cause to be erected a sign or signs giving notification of the date, time and place of a public hearing to consider the proposed historic designation. In the case of a historic property, one (1) sign shall be placed on the property visible from a public street. In the case of a historic district, signs shall be placed at each point where the district boundary intersects a public street.

- (7) *Recommendation to governing authority.* A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the commission within fifteen (15) days following the public hearing and shall be in the form of a resolution to the governing authority.

Following receipt of the commission's recommendation, the governing authority may adopt the ordinance as proposed, may adopt the ordinance with any amendments it deems necessary, or reject the ordinance.

- (8) *Final notice.* Within thirty (30) days following a designation by the governing authority, the owners and occupants of each designated historic property, and the owners and occupants of each structure, site or work of art located within a designated historic district, shall be given written notification of such designation by the governing authority. The notice shall apprise owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated. A notice sent via the United States mail to the last known owner of the property shown on the City tax digest and a notice sent via United States Mail shall constitute legal notification to the owner and occupant under this ordinance.

- (9) *Notification of other agencies regarding designation.* The commission shall notify all necessary agencies with the city of the ordinance for designation.

- (10) *Moratorium on applications for alteration or demotion while ordinance for designation is pending.* If an ordinance for designation is being considered, the commission shall have the power to freeze the status of the involved property.

320 **Sec. 13.5-9. - Certification of appropriateness.**

321 After the designation by ordinance of a historic property or of a historic district, no material
322 change in the appearance of such historic property, or of a structure, site or work of art within
323 such historic district shall be made or be permitted to be made by the owner or occupant thereof
324 unless and until an application for a certificate of appropriateness has been submitted and
325 approved by the commission. A building permit shall not be issued without a certificate of
326 appropriateness.

327 (1) *Application for certificate of appropriateness.* Owners of historic property or of
328 property in a historic district, or their duly authorized agents, must make application for
329 a certificate of appropriateness on forms and according to procedures promulgated by
330 the commission for such purpose. The Georgia Department of Transportation and
331 contractors performing work funded by the Georgia Department of Transportation are
332 exempt from provisions of this chapter. Local governments are also exempt from
333 obtaining certificates of appropriateness but shall notify the commission at least forty-
334 five (45) days prior to beginning or undertaking any work that would otherwise require
335 a certificate of appropriateness, so as to allow the commission an opportunity to
336 comment. All applications for certificates of appropriateness shall be accompanied by
337 drawings, photographs, plans and documentation as required by the commission.
338 Notarized authorization of the property owner shall be required if the applicant is not
339 the owner of record.

340 (2) *Public hearings on applications for certificates of appropriateness, notices and*
341 *right to be heard.* The commission shall hold a public hearing at which each proposed
342 certificate of appropriateness is discussed. Notice of the hearing shall be published in
343 the principal newspaper of local circulation in the city and written notice of the
344 hearing shall be mailed by the commission to all owners and occupants of the subject
345 property. The written and published notice shall be provided in the same manner and
346 time frame as notices are provided before a Public Hearing for Rezoning.

347 The commission shall give the property owner and/or applicant an opportunity
348 to be heard at the certificate of appropriateness hearing.

349 (3) *Review of applications.* When reviewing applications for certificates of
350 appropriateness, the commission shall consider, in addition to any other pertinent
351 factors, historical and architectural value and significance; architectural style; general
352 design; arrangement; texture and materials of the architectural features involved and the
353 relationship thereof to the exterior architectural style; and pertinent features of other
354 properties in the immediate neighborhood. When considering applications for existing
355 buildings, the Secretary of the Interior's Standards for Historic Preservation Projects,
356 including the Standards for Rehabilitation, shall be used as a guideline.

357 (4) *Interior changes.* In its review of applications for certificates of appropriateness, the
358 commission shall not consider interior arrangements or uses having no effect on exterior
359 architectural features. The commission may delegate the responsibility for determining
360 the extent of interior change and its effect on the exterior appearance to the planning
361 director or his designee.

- (5) *Demolition.* A decision may be made by the commission approving or denying a certificate of appropriateness for the demolition of buildings, structures, sites or objects.
- (6) *Ordinary maintenance and repair.* Ordinary maintenance or repair of any exterior architectural feature in or on a historic property, that does not involve a material change in design, material, or outer appearance thereof, is excluded from review and does not require a certificate of appropriateness.
- (7) *Approval.* The commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change(s) in appearance would not have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district. The commission may approve the application as proposed, approve it with modifications, or deny the application. The commission shall approve, approve with modifications or deny an application for a certificate of appropriateness within forty-five (45) days after the filing thereof by the applicant unless an extension is requested by the applicant and granted by the commission. Evidence of approval shall be by certificate of appropriateness issued by the commission. Failure of the commission to act within said forty-five (45) days shall constitute approval and a certificate of appropriateness shall be issued.
- (8) *Final action.* The commission's decision, whether to accept or reject an application shall be in writing. The written decision shall be signed by the chair or the vice-chair and must clearly set forth the reasons for the decision, including whether the guidelines have been met and specifically which factors, as set forth in section 13.5-8(3), were considered in reaching the decision. In the event the commission rejects an application, it shall state its reasons for doing so and shall transmit a record of such action and the reasons therefor, in writing, to the applicant. Approval of an application shall also result in the issuance of a certificate of appropriateness. Notice of the issuance or denial of a certificate of appropriateness shall be sent to the applicant and all other persons who have filed a written request for such notice with the commission. All work performed pursuant to a certificate of appropriateness shall conform to the requirements of such certificate and by other applicable laws. In the event work is performed which is not in accordance with such certificate or laws, the city shall issue a cease and desist order and all work shall cease. A certificate of appropriateness shall become void unless construction is commenced within twelve (12) months of the date of the issuance. Certificates of appropriateness shall be issued for a period of eighteen (18) months and are not renewable.
- (9) *Revised applications.* The commission may suggest alternative courses of action if it denies the application submitted. The applicant may make modifications to the plans and may resubmit the application at any time after making such modifications as suggested by the commission.
- (10) *Prohibition on issuance of development permits.* In cases where the application covers a material change in the appearance of a structure, which would require the issuance of a permit of any kind, the denial of the application for a certificate of appropriateness shall be binding upon the city and no permit related to the rejection of the application for a certificate of appropriateness shall be issued by the city.

(11) *Official record.* The commission shall keep a public record of all applications for certificates of appropriateness and of all the commission's proceedings in connection with applications. Such records shall be maintained by the planning director. In the event of an appeal to the governing authority, the official record of the commission's decision shall consist of the application, any accompanying drawings, renderings or photographs, written comments from planning department staff, written comments of any participant at the hearing before the commission and the commission's written decision. Such records shall be available for review in the planning department within ten (10) days of a final decision by the commission on the certificate of appropriateness.

(12) *Appeal to the governing authority.* Any person adversely affected by any decision made by the commission relative to the issuance or denial of a certificate of appropriateness (i.e. the applicant or any owner of adjoining property or owner of property whose property line is within one thousand five hundred (1,500) feet of the applicant's property according to the DeKalb County tax records) may appeal such decision to the governing authority. The appeal shall be limited to a review of the record of the proceedings before the commission. The standard of review shall be an abuse of discretion. An abuse of discretion exists where the record presented to the governing authority shows that the commission exceeded the limits of its authority or that the commission's decision was not based on factors set forth in the section 13.5-9(3) or the guidelines adopted by the commission pursuant to section 13.5-6 or that the commission's decision was otherwise arbitrary and capricious. If the governing authority finds no abuse of discretion, then it may affirm the decision of the commission. If the governing authority finds that the commission abused its discretion in reaching a decision, then it may reverse the commission's decision, or it may reverse the commission's decision and remand the application to the commission with direction. All appeals must comply with the procedures set forth below:

a. Any appeal must be filed in writing with the city clerk using an appeal form provided by the planning director, within fifteen (15) days after the date of issuance or denial of the certificate of appropriateness. The appellant shall also deliver copies of the appeal to the planning department and the city attorney.

b. In the written appeal, the appellant must describe how the commission's decision constitutes an abuse of discretion. Specifically, the appellant must, citing to the commission's written decision, show at least one (1) of the following: that the commission exceeded the limits of its authority, or that the commission's decision was not based on factors set forth in the section 13.5-9(3) or on the guidelines adopted by the commission pursuant to section 13.5-6, or that the commission's decision was otherwise arbitrary and capricious.

c. In addition to the appeal form, the appellant may submit a written supplementary explanation in support of the appeal. The supplementary explanation shall be submitted with the appeal. The supplementary explanation may not exceed three (3) pages and must be typewritten and double-spaced using a twelve-point font with a one-inch margin on all four (4) sides. The governing authority will not consider text in excess of the page limit set forth herein.

- d. Any adversely affected person may also submit a written supplementary explanation that must comply with all of the requirements set forth in section 13.5-9(12)c, in support of, or in opposition to the appeal. All written supplementary explanations authorized by this subsection must be filed within five (5) days after the appeal is filed. Such written supplementary explanations must be filed with the city clerk with copies to the planning director, and the city attorney.
- e. The planning department shall submit appeals of the decisions of the historic commission to the governing authority for consideration at any of the city council's regularly scheduled meetings within forty-five (45) days of the issuance of the decision from the commission.
- f. The agenda item shall set forth the standard of review to be used by the governing authority in deciding the appeal. The official record of the commission's decision together with the appeal and all properly filed written supplemental explanations in support and in opposition to the appeal, will be attached to the governing authority's agenda item. The governing authority may not consider any written document that is not attached as the official record to the governing authority's agenda item for the appeal. The appellant and any person who has filed a statement in opposition to, or in support of the appeal may attend the meeting and may be called upon by any member of the governing authority to provide information or answer questions. There shall be no other public participation in the appeal.
- g. The governing authority shall render a decision on the appeal within thirty (30) days of the first appearance of the appeal on the city council's agenda.

(13) *Appeals to Superior Court.* An appeal from a decision of the governing authority shall be made by a petition for writ of certiorari to the Superior Court of DeKalb County.

(14) *Court action.* The governing authority is authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in the appearance of a designated historic property or district, except those changes made in compliance with the provisions of this chapter, or to prevent any illegal act or conduct with respect to such historic property or district.

Sec. 13.5-10. - Acquisitions.

The commission may, where such action is authorized by the governing authority and is reasonably necessary or appropriate for the preservation of a unique historic property, enter into negotiations with the owner of properties or of properties within historic districts for the acquisition by gift, purchase, exchange or otherwise of ownership of the property or any interest therein. Final approval and ownership of these properties would be determined by the governing authority.

Sec. 13.5-11. - Failure to maintain historic property.

Property owners of historic properties or properties within historic districts shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The

commission shall monitor the condition of historic properties and existing buildings, structures, sites and works of art located in historic districts to determine if they are being allowed to deteriorate by neglect.

If the commission determines a failure to provide ordinary maintenance and repair, the commission will notify the owner of the property and set forth the steps which need to be taken to remedy the situation. The owner of such property shall have thirty (30) days to initiate the appropriate repairs.

In the event that efforts to correct the condition are not commenced within thirty (30) days, the owner shall be considered in violation of this chapter and shall be subject to fines not to exceed one thousand dollars (\$1,000.00) for each day of violation. Alternatively, at the direction of the governing authority, the commission may perform such maintenance or repair as is necessary to prevent deterioration by neglect. The owner of the property shall be liable for the cost of such maintenance and repair performed by the commission.

Sec. 13.5-12. - Exceptions.

Where by reason of unusual circumstances, the strict application of any provision of this chapter would result in exceptional practical difficulty or undue hardship upon any owner of any specific property, the commission in passing upon applications shall have power to vary or modify strict adherence to said provisions or to interpret the meaning of said provisions so as to relieve such difficulty or hardship; provided, however, that such variance, modification, or interpretation shall remain in harmony with the general purpose and intent of said provisions so that the architectural or historical integrity or character of the property shall be conserved and substantial justice done. In granting variations, the commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this chapter. An undue hardship shall be a situation beyond the control of the applicant, which is a problem unique to a specific property or in order to comply with this chapter, the person will violate another ordinance of the city. The burden of demonstrating the existence of the hardship by a preponderance of evidence shall be with the applicant.

Sec. 13.5-13. - Application fees.

Each application for a certificate of appropriateness shall be accompanied by a fee in an amount established by the governing authority, a copy of which will remain on file in the planning department, to partially defray the public expense in processing such application. The fee shall not be required for an application filed by the city.

Sec. 13.5-14. - Penalties.

Any person who does anything prohibited by the chapter as it exists or as it may hereafter be amended, or who fails to do anything required by this chapter as it now exists or as it may hereafter be amended, upon conviction of a violation, shall be subject to punishment as provided by law. Each day this violation exists shall be deemed a separate offense.

Sec. 13.5-15. - Severability.

Nothing in the chapter shall be construed as to exempt property owners from complying with existing city building and zoning codes, nor prevent any property owner from making any use of this property not prohibited by other statutes, ordinances or regulations.

Sec. 13.5-16. - Severability.

In the event that any section, subsection, sentence, clause, or phrase of this chapter shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, sentences, clauses, or phrases of this chapter, which shall remain in full force and effect, as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

Sec. 13.5-17. - Repeal of conflicting ordinances.

This chapter is the Historic Preservation Ordinance of the City of Stonecrest, and all other conflicting ordinances or resolutions are hereby repealed.

Section 2:

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

5. The within ordinance shall become effective upon its adoption.

6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

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

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend the Charter, Section 1.03 (b) (37) (A) to Amend the Mileage Rate Cap

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

Council Meeting 08/15/2018

Council Meeting 10/15/2018

SUBMITTED BY: City Attorney

PURPOSE: This item is to amend the Charter Section 1.03 (b) (37) (A) to amend the millage rate.

HISTORY: This item was heard at the August 15th Special Called Meeting. It has been published in a newspaper once a week for three weeks within a sixty-day period immediately preceding its final adoption. This is the first read and it should be adopted on November 7, 2018.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

**AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF STONECREST,
GEORGIA, FOR THE PURPOSE OF AMENDING THE MILLAGE RATE CAP
IMPOSED BY SECTION 1.03(b)(37)(A) OF ARTICLE I OF THE CITY CHARTER**

WHEREAS, Section 1.03(b)(37)(A) of 2.07 of Article I of the Charter of the City of Stonecrest, Georgia (the "City Charter") provides that the millage rate imposed for ad valorem taxes on real property shall not exceed 3.35; and

WHEREAS, the Mayor and City Council of the City of Stonecrest desire that the 3.35 millage rate limitation for ad valorem taxes on real property be modified to provide that the limitation shall be increased from 3.35 by the amount of any roll back or reduction of the millage rate for ad valorem taxes imposed by DeKalb County, Georgia for governmental services formerly provided by it to the residents and property owners of the City of Stonecrest which governmental services are to be or will be provided by the city; and

WHEREAS, the Mayor and City Council of the City of Stonecrest have determined that the City Charter should be amended by Home Rule to make the necessary change; and

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, which is titled Home Rule for Municipalities, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with the Municipal Home Rule Act of 1965, provided in O.C.G.A. 36-35-1 *et seq.*;

WHEREAS, O.C.G.A. 36-35-3(b)(1) allows municipal charters to be amended by ordinances duly adopted at two (2) regular consecutive meetings of the municipal governing authority, not less than seven (7) nor more than sixty (60) days apart; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) requires a notice containing a synopsis of the proposed amendment to be published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks within a period of sixty (60) days immediately preceding its final adoption; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) further requires that the notice shall state that a copy of the proposed amendment is on file in the office of the clerk of the municipal governing authority and in the office of the clerk of the superior court of the county of the legal situs of the municipal corporation for the purpose of examination and inspection by the public; and

WHEREAS, pursuant to O.C.G.A. 36-35-3(b)(1), the required notice has been published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks prior to its final adoption, and a copy of the proposed amendment has been placed on file in the Office of the Clerk of the City of Stonecrest and in the Office of the Clerk of Superior Court of DeKalb County, Georgia, as required by Georgia law; and

WHEREAS, the required notice will have been published within the statutory period of sixty (60) days immediately preceding the final adoption of this Ordinance amending the City Charter; and

WHEREAS, the title of this Ordinance shall have been read and this Ordinance duly adopted at two consecutive City Council meetings not less than seven (7) nor more than sixty (60) days apart as required by Georgia law.

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

Section 1: That the Charter of the City of Stonecrest, Georgia, is hereby amended as follows:

Section 1.03(b)(37)(A) of Article I of the City Charter is restated and amended to read as follows:

(37) Taxes; ad valorem. To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation; provided, however, that:

(A) The millage rate imposed for ad valorem taxes on real property shall not exceed 3.35 plus the amount of any roll back or reduction by DeKalb County of its millage rate imposed for ad valorem taxes on real property within corporate limits of the city for services assumed by the city from DeKalb County unless either (i) the millage rate is increased above such amount by a higher limit is recommended by resolution of the city council without voter approval through the exercise of home rule powers, or (ii) approved by a majority of the qualified electors of the City of Stonecrest voting on the issue, provided that the amount of millage associated with general obligation bonds or the creation of special tax districts pursuant to Article IX, Section II, Paragraph VI of the Constitution of the State of Georgia shall not count as part of the 3.35 limit since such millage is already subject to approval by the electors of the city in a separate referendum;"

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.

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80 2. It is hereby declared to be the intention of the Mayor and City Council that, to the
81 greatest extent allowed by law, each and every section, paragraph, sentence, clause or
82 phrase of this Ordinance is severable from every other section, paragraph, sentence,
83 clause or phrase of this Ordinance. It is hereby further declared to be the intention of the
84 Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph,
85 sentence, clause or phrase of this Ordinance is mutually dependent upon any other
86 section, paragraph, sentence, clause or phrase of this Ordinance.
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88 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
89 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
90 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is
91 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,
92 or unenforceability shall, to the greatest extent allowed by law, not render invalid,
93 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,
94 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed
95 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the
96 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
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98 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith
99 are hereby expressly repealed.
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101 5. The within ordinance shall become effective upon its adoption.
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103 6. The provisions of this Ordinance shall become and be made part of the City Charter and
104 shall be codified in accordance with state law.
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ORDINANCE 2018-_____

Approved:

As to form:

City Attorney

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend the Charter, Section 2.13(e) to Eliminate the Restriction of Employment by any City or County Government

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

Council Meeting 08/15/2018

Council Meeting 10/15/2018

SUBMITTED BY: City Attorney

PURPOSE: This item is to amend the Charter Section 2.13 (e) to eliminate the restriction of employment by any City of County Government

HISTORY: This item was heard at the August 15th Special Called Meeting. It has been published in a newspaper once a week for three weeks within a sixty-day period immediately preceding its final adoption. This is the first read and it should be adopted on November 7, 2018.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

**AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF STONECREST,
GEORGIA, FOR THE PURPOSE OF ELIMINATING THE RESTRICTION OF
EMPLOYMENT BY ANY MEMBER OF THE CITY COUNCIL BY ANY CITY OR
COUNTY GOVERNMENT IN SECTION 2.13(e) OF THE CITY CHARTER**

WHEREAS, Section 2.13(e) of the Charter of the City of Stonecrest, Georgia (the "City Charter") prohibits any member of the City Council to be employed by any city or county government during the term for which elected; and

WHEREAS, the Mayor and City Council of the City of Stonecrest desire that this restriction on employment be removed unless prohibit by law; and

WHEREAS, the Mayor and City Council of the City of Stonecrest have determined that the City Charter should be amended by Home Rule to make the necessary change; and

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, which is titled Home Rule for Municipalities, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with the Municipal Home Rule Act of 1965, provided in O.C.G.A. 36-35-1 *et seq.*;

WHEREAS, O.C.G.A. 36-35-3(b)(1) allows municipal charters to be amended by ordinances duly adopted at two (2) regular consecutive meetings of the municipal governing authority, not less than seven (7) nor more than sixty (60) days apart; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) requires a notice containing a synopsis of the proposed amendment to be published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks within a period of sixty (60) days immediately preceding its final adoption; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) further requires that the notice shall state that a copy of the proposed amendment is on file in the office of the clerk of the municipal governing authority and in the office of the clerk of the superior court of the county of the legal situs of the municipal corporation for the purpose of examination and inspection by the public; and

WHEREAS, pursuant to O.C.G.A. 36-35-3(b)(1), the required notice has been published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks prior to its final adoption, and a copy of the proposed amendment has been placed on file in the Office of the Clerk of the City of Stonecrest and in

the Office of the Clerk of Superior Court of DeKalb County, Georgia, as required by Georgia law; and

WHEREAS, the required notice will have been published within the statutory period of sixty (60) days immediately preceding the final adoption of this Ordinance amending the City Charter; and

WHEREAS, the title of this Ordinance shall have been read and this Ordinance duly adopted at two consecutive City Council meetings not less than seven (7) nor more than sixty (60) days apart as required by Georgia law.

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

Section 1: That the Charter of the City of Stonecrest, Georgia, is hereby amended as follows:

Section 2.13(e) of Article II of the City Charter is hereby amended as follows:

“SECTION 2.13
Prohibitions.

(e) Except as authorized by law, no member of the city council shall hold any other elective office or be employed by the City of Stonecrest during the term for which elected.”

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.

2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise

unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of the City Charter and shall be codified in accordance with state law.

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-__ - __

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98 **SO ORDAINED AND EFFECTIVE** this the ____ day of _____, 201__.

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Approved:

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115 Brenda James, City Clerk

Jason Lary, Sr., Mayor

As to form:

City Attorney



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend the Charter, Section 3.11 of Article III to Change the name of the City Accountant to the City Finance Director

(X) ORDINANCE () POLICY () STATUS REPORT
() DISCUSSION ONLY () RESOLUTION () OTHER

Council Meeting 08/15/2018

Council Meeting 10/15/2018

SUBMITTED BY: City Attorney

PURPOSE: This item is to amend the Charter Section 3.11 of Article III to change the name of the City Accountant to the City Finance Director

HISTORY: This item was heard at the August 15th Special Called Meeting. It has been published in a newspaper once a week for three weeks within a sixty-day period immediately preceding its final adoption. This is the first read and it should be adopted on November 7, 2018.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

**AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF STONECREST,
GEORGIA, FOR THE PURPOSE OF CHANGING THE NAME OF THE CITY
ACCOUNTANT TO THE CITY FINANCE DIRECTOR; TO PROVIDE THAT THE
CITY COUNCIL HAS THE AUTHORITY TO MAKE THE APPOINTMENT; TO
DEFINE THE DUTIES OF THE CITY FINANCE DIRECTOR BY AMENDING
SECTION 3.11 OF ARTICLE III OF THE CITY CHARTER**

WHEREAS, Section 3.11 of the Charter of the City of Stonecrest, Georgia (the "City Charter") provides that the mayor may appoint a city account subject to the confirmation by the city council to perform the duties of an accountant; and

WHEREAS, the Mayor and City Council of the City of Stonecrest desire that the name of the City Accountant be changed to the City Finance Director, that the City Council appoint the City Finance Director and to further define the duties of the City Finance Director; and

WHEREAS, the Mayor and City Council of the City of Stonecrest have determined that the City Charter should be amended by Home Rule to make the necessary change; and

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, which is titled Home Rule for Municipalities, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with the Municipal Home Rule Act of 1965, provided in O.C.G.A. 36-35-1 *et seq.*;

WHEREAS, O.C.G.A. 36-35-3(b)(1) allows municipal charters to be amended by ordinances duly adopted at two (2) regular consecutive meetings of the municipal governing authority, not less than seven (7) nor more than sixty (60) days apart; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) requires a notice containing a synopsis of the proposed amendment to be published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks within a period of sixty (60) days immediately preceding its final adoption; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) further requires that the notice shall state that a copy of the proposed amendment is on file in the office of the clerk of the municipal governing authority and in the office of the clerk of the superior court of the county of the legal situs of the municipal corporation for the purpose of examination and inspection by the public; and

WHEREAS, pursuant to O.C.G.A. 36-35-3(b)(1), the required notice has been published in a newspaper of general circulation in the municipal corporation once a week for

three (3) weeks prior to its final adoption, and a copy of the proposed amendment has been placed on file in the Office of the Clerk of the City of Stonecrest and in the Office of the Clerk of Superior Court of DeKalb County, Georgia, as required by Georgia law; and

WHEREAS, the required notice will have been published within the statutory period of sixty (60) days immediately preceding the final adoption of this Ordinance amending the City Charter; and

WHEREAS, the title of this Ordinance shall have been read and this Ordinance duly adopted at two consecutive City Council meetings not less than seven (7) nor more than sixty (60) days apart as required by Georgia law.

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

Section 1: That the Charter of the City of Stonecrest, Georgia, is hereby amended as follows:

Section 3.11 of Article III of the City Charter is hereby amended and restated in its entirety as follows:

“SECTION 3.11
City Finance Director

The city council shall appoint a City Finance Director to supervise and perform the financial accounting and treasury functions of the City of Stonecrest.”

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

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3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
 5. The within ordinance shall become effective upon its adoption.
 6. The provisions of this Ordinance shall become and be made part of the City Charter and shall be codified in accordance with state law.

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-__-__

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SO ORDAINED AND EFFECTIVE this the ____ day of _____, 201__.

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Approved:

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Jason Lary, Sr., Mayor

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As to form:

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City Attorney

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Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend the Charter, Article IV for Amending the Titles of Persons serving as any Municipal Court Judge

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

Council Meeting 08/15/2018

Council Meeting 10/15/2018

SUBMITTED BY: City Attorney

PURPOSE: This item is to amend the Charter, Article IV for Amending the Titles of Persons serving as any Municipal Court Judge.

HISTORY: This item was heard at the August 15th Special Called Meeting. It has been published in a newspaper once a week for three weeks within a sixty-day period immediately preceding its final adoption. This is the first read and it should be adopted on November 7, 2018.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

**AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF STONECREST,
GEORGIA, FOR THE PURPOSE OF AMENDING THE TITLES OF PERSONS
SERVING AS ANY MUNICIPAL COURT JUDGE PURSUANT TO ARTICLE IV OF
THE CITY CHARTER**

WHEREAS, Article IV of the Charter of the City of Stonecrest, Georgia (the "City Charter") provides for the qualifications and duties of judges serving as any municipal court judge of the City of Stonecrest; and

WHEREAS, the Mayor and City Council of the City of Stonecrest desire rename the title of the judges of serving as municipal court judges of the City of Stonecrest; and

WHEREAS, the Mayor and City Council of the City of Stonecrest have determined that the City Charter should be amended by Home Rule to make the necessary change; and

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, which is titled Home Rule for Municipalities, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with the Municipal Home Rule Act of 1965, provided in O.C.G.A. 36-35-1 *et seq.*;

WHEREAS, O.C.G.A. 36-35-3(b)(1) allows municipal charters to be amended by ordinances duly adopted at two (2) regular consecutive meetings of the municipal governing authority, not less than seven (7) nor more than sixty (60) days apart; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) requires a notice containing a synopsis of the proposed amendment to be published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks within a period of sixty (60) days immediately preceding its final adoption; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) further requires that the notice shall state that a copy of the proposed amendment is on file in the office of the clerk of the municipal governing authority and in the office of the clerk of the superior court of the county of the legal situs of the municipal corporation for the purpose of examination and inspection by the public; and

WHEREAS, pursuant to O.C.G.A. 36-35-3(b)(1), the required notice has been published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks prior to its final adoption, and a copy of the proposed amendment has been placed on file in the Office of the Clerk of the City of Stonecrest and in

the Office of the Clerk of Superior Court of DeKalb County, Georgia, as required by Georgia law; and

WHEREAS, the required notice will have been published within the statutory period of sixty (60) days immediately preceding the final adoption of this Ordinance amending the City Charter; and

WHEREAS, the title of this Ordinance shall have been read and this Ordinance duly adopted at two consecutive City Council meetings not less than seven (7) nor more than sixty (60) days apart as required by Georgia law.

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

Section 1: That the Charter of the City of Stonecrest, Georgia, is hereby amended as follows:
Section 4.02, Section 4.03 and Section 4.06 of Article IV of the City Charter is amended and restated in its entirety to read as follows:

SECTION 4.02

Judges.

“(a) No person shall be qualified or eligible to serve as a judge unless he or she shall have attained the age of 28 years and shall have been a member of the State Bar of Georgia for a minimum of three years. The judges, including a judge to be designated the chief judge, shall be nominated by the mayor subject to approval by the city council. The compensation and number of the judges shall be fixed by the city council.

(b)

Before entering on the duties of his or her office, the chief judge and each other judge shall take an oath before an officer duly authorized to administer oaths in this state declaring that he or she will truly, honestly, and faithfully discharge the duties of his or her office to the best of his or her ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council.

(d) Each judge, including the chief judge, shall serve for a term of four years but may be removed from the position by a two-thirds' vote of the entire membership of the city council or shall be removed upon action taken by the state Judicial Qualifications Commission for:

(1) Willful misconduct in office;

(2) Willful and persistent failure to perform duties;

(3) Habitual intemperance;

(4) Conduct prejudicial to the administration of justice which brings the judicial office into disrepute; or

(5) Disability seriously interfering with the performance of duties, which is or is likely become of a permanent character.”

SECTION 4.03.

Convening.

The municipal court shall be convened at such times as designated by ordinance or at such times as deemed necessary by the chief judge, or any other judge in the absence of the chief judge due to his or her illness or disability, to keep current the dockets thereof.

SECTION 4.06.

Rules for court.

With the approval of the city council, the chief judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court.

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-_____

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

5. The within ordinance shall become effective upon its adoption.

6. The provisions of this Ordinance shall become and be made part of the City Charter and shall be codified in accordance with state law.

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 201__.

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk