

STATE OF GEORGIA

DEKALB COUNTY

CITY OF STONECREST

ORDINANCE NO. ____ - _____

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL OF THE CITY OF STONECREST, GEORGIA TO REZONE 4700 BROWNS MILL ROAD BY APPROVING MAJOR CHANGES TO CONDITIONS ON THE PROPERTY; TO PROVIDE SEVERABILITY; TO PROVIDE A PENALTY; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the governing body of the City of Stonecrest (“City”) is the Mayor and City Council thereof; and

WHEREAS, Article IX, Section II, Paragraph IV of the 1983 Constitution of the State of Georgia authorizes the City to adopt plans and exercise the power of zoning; and

WHEREAS, the governing authority of the City is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs, and local government; and

WHEREAS, the Mayor and City Council desire to rezone 4700 Browns Mill Road by approving major changes to conditions on the property; and

WHEREAS, pursuant to Sec. 7.3.10. (*Modifications and Changes to Approved Conditions of Zoning*.) of the City’s Zoning Code any major changes to conditions attached to an approved zoning amendment shall require an application and public hearings before the planning commission and the city council; and

WHEREAS, the following shall be deemed to constitute major changes:

1. The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;
2. Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;
3. Any decrease in the size of residential units imposed in the original conditional zoning amendment;
4. Any change in any buffer requirements imposed in the original conditional zoning amendment;
5. Any increase in the height of any building or structure;
6. Any change in the proportion of floor space devoted to different authorized uses; or
7. Any change to conditions, except minor changes, as defined in subsection A. of this section, imposed by the city council when approving any change to the official zoning map, commonly referred to as a rezoning or a zoning amendment.

WHEREAS, the rezoning case, CZ-05-32 for 4700 Browns Mill Road, initially went through the entitlement process in 2005 by way of Dekalb County to rezone subject property from R-100 to RA-8 to allow for a senior community of 112 attached townhome units; and

WHEREAS, the petition was approved on June 14, 2005, with ten (10) conditions; and

WHEREAS, the applicant is seeking a major modification of conditions 1, 6, 7, and 10 of the subject property to change conditions from zoning case number CZ-05-32 to allow for the development; and

WHEREAS, from time-to-time amendments may be proposed for public necessity, general welfare, or sound zoning practice that justify such action; and

WHEREAS, the Director of Planning and Zoning recommends approval of the major changes to conditions of property located at 4700 Browns Mill Road based on the City Staff Report attached hereto and incorporated by reference as Exhibit A; and

WHEREAS, the matter was heard in the City's Community Planning Information Meeting pursuant to the provisions of the City's Zoning Procedures Law; and

WHEREAS, a public hearing and recommendation pursuant to the provisions of the City's Zoning Procedures Law has been provided by the Planning Commission; and

WHEREAS, a public hearing pursuant to the provisions of Georgia's Zoning Procedures Law has been properly held by the City Council prior to the adoption of this Ordinance; and

WHEREAS, the health, safety, and welfare of the citizens of the city will be positively impacted by the adoption of this Ordinance.

BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF STONECREST, GEORGIA, and by the authority thereof:

Section 1. The official zoning map of the City of Stonecrest, Georgia is hereby rezoned by approving major changes to conditions of the property located at 4700 Browns Mill Road parcel number: 16-012-01-007.

Section 2. The conditions shall be amended as follows:

Condition 1: The maximum number of units shall be ~~112 single-family attached townhome units.~~ 49 single-family detached units.

Condition 6: The proposed development shall be conditioned upon the ~~concept site plan prepared by James Harwick & Partners, dated March 3, 2005.~~ final site plan submitted to the Planning Department prior to the final City Council hearing.

Condition 7: Any and all single-family ~~attached townhome unit(s)~~ detached units shall have a minimum heated floor area of ~~700~~ 1,200 square feet.

Condition 10: ~~The entrance to the development shall be gated, and fencing around the community shall be black aluminum with columns of either brick or stacked stone. DELETE~~

Section 3. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 4. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses, and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and 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 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.

(c) 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 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 section 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.

Section 5. The City Clerk, with the concurrence of the City Attorney, is authorized to correct any scrivener's errors found in this Ordinance, including its exhibits, as enacted.

Section 6. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 7. The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Stonecrest.

Section 8. It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of Stonecrest, Georgia.

ORDAINED this _____ day of _____, 2023.

[SIGNATURES TO FOLLOW]

CITY OF STONECREST, GEORGIA

Jazzmin Cobble, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

Raymond White
Director
Planning and Zoning
Department



Matthew
Williams
Deputy Director
Planning and
Zoning
Department

TO: Mayor and City Council

FROM: Planning and Zoning Department

SUBJECT: RZ-23-003

ADDRESS: 4700 Browns Mill Road

MEETING DATE: August 28, 2023

Summary: Applicant is seeking a major modification of the conditions of the subject property to change the conditions from zoning case number CZ-05-32, to allow for 46 Single-Family Detached Dwellings.

STAFF RECOMMENDATION: Approval of all requested modifications

PLANNING COMMISSION RECOMMENDATION: Deferral to address the issue traffic, design/elevations, price point, and undeveloped land use for a green space.



RZ-23-003

Planning and Zoning Department

District #4: George Turner, Jr.

PROPERTY INFORMATION	
Location of Subject Property: 4700 Browns Mill Road	
Parcel Number: 16-012-01-007	
Road Frontage: Browns Mill Road	Total Acreage: 24.02 +/-
Current Zoning: RSM (Small Lot Residential Mix)	Overlay District: N/A
Future Land Use Map/ Comprehensive Plan: SUB (Suburban)	
Zoning Request: Applicant is seeking a major modification of conditions of the subject property to change the conditions from zoning case number CZ-05-32, to allow for 46 Single-Family Detached Dwellings.	
Zoning History (CZ-05-32): Subject property went through a rezoning process in June 2005 by way of Dekalb County. The applicant was City of Hope Ministries, Incorporation who desired to construct a townhome subdivision.	

APPLICANT / PROPERTY OWNER INFORMATION
Applicant Name: Battle Law P.C.
Applicant Address: 3562 Habersham at North Lake, Building J, Suite 100
Property Owner Name: Ray of Hope Christian Church Disciples of Christ, Inc.
Property Owner Address: 4700 Browns Mill Road

**DETAILS OF ZONING REQUEST**

The rezoning case, **CZ-05-32**, initially went through the entitlement process in 2005 by way of Dekalb County. The Applicant at that time, City of Hope Ministries, Inc. petitions to rezoned subject property from R-100 to RA-8 to allow for a senior community of 112 attached townhome units. The petition was approved on June 14, 2005, with ten (10) conditions.

The Applicant, Battle Law P.C., on the behalf of the property's owner, Ray of Hope Christian Church Disciples, is seeking to develop 46 single-family detached homes on the subject parcel. The Applicant is seeking a Major Modification of Conditions of the Subject Property to change the following conditions from zoning case number CZ-05-32 to allow for the development: conditions 1, 6, 7, and 10. The original conditions are listed below with the proposed changes in red.

Condition 1: The maximum number of units shall be ~~112 single-family attached townhome units.~~
49 single-family detached units.

Condition 6: The proposed development shall be conditioned upon the ~~concept site plan prepared by James Harwick & Partners, dated March 3, 2005.~~ final site plan submitted to the Planning Department prior to the final City Council hearing.

Condition 7: Any and all single-family ~~attached townhome unit(s)~~ detached units shall have a minimum heated floor area of ~~700~~ 1,200 square feet.

Condition 10: ~~The entrance to the development shall be gated, and fencing around the community shall be black aluminum with columns of either brick or stacked stone.~~ DELETE

ADJACENT ZONING & LAND USE

NORTH	Zoning: R-100 (Residential Medium Lot)	Land Use: Single-Family Dwellings
SOUTH	Zoning: R-100 (Residential Medium Lot)	Land Use: More Than Conquerors Church
EAST	Zoning: R-100 (Residential Medium Lot)	Land Use: Single-Family Dwellings
WEST	Zoning: R-100 (Residential Medium Lot)	Land Use: Single-Family Dwellings

**PHYSICAL CHARACTERISTICS &
INFRASTRUCTURE**

The site is currently undeveloped with one (1) road frontage (Browns Mill Road). There are floodplain and/or statewaters on the subject property.

**MODIFICATIONS AND CHANGES TO APPROVED
CONDITIONS OF ZONING CRITERIA**

1. The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;
2. Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;
3. Any decrease in the size of residential units imposed in the original conditional zoning amendment;
4. Any change in any buffer requirements imposed in the original conditional zoning amendment;
5. Any increase in the height of any building or structure;
6. Any change in the proportion of floor space devoted to different authorized uses; or
7. Any change to conditions, except minor changes, as defined in subsection A. of this section, imposed by the city council when approving any change to the official zoning map, commonly referred to as a rezoning or a zoning amendment.

RECOMMENDATION

Staff recommends the following:

- **APPROVAL** of Modification of Condition 1
- **APPROVAL** of Modification of Condition 6
- **APPROVAL** of Modification of Condition 7
- **APPROVAL** of Modification of Condition 10

Planning Commission recommends deferral to address issues of the community.



RZ-23-003

Planning and Zoning Department

Attachments Included:

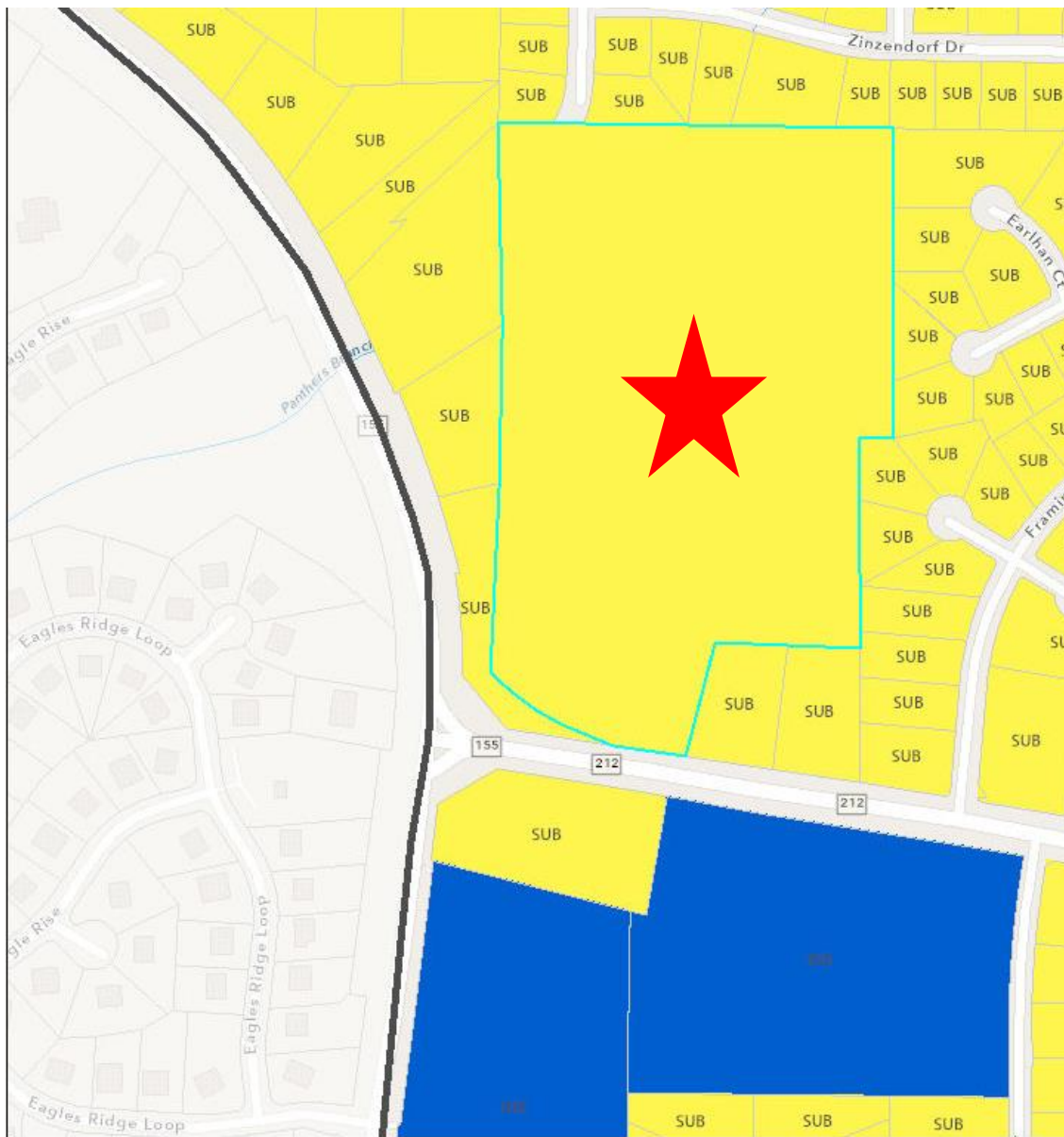
- **Future Land Use Map**
- **Zoning Map**
- **Aerial Map**
- **Site Plan/Survey**
- **Zoning Conditions**
- **Letter of Intent**
- **Environmental Site Analysis**



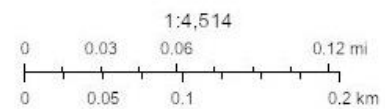
RZ-23-003

Planning and Zoning Department

Future Land Use Map

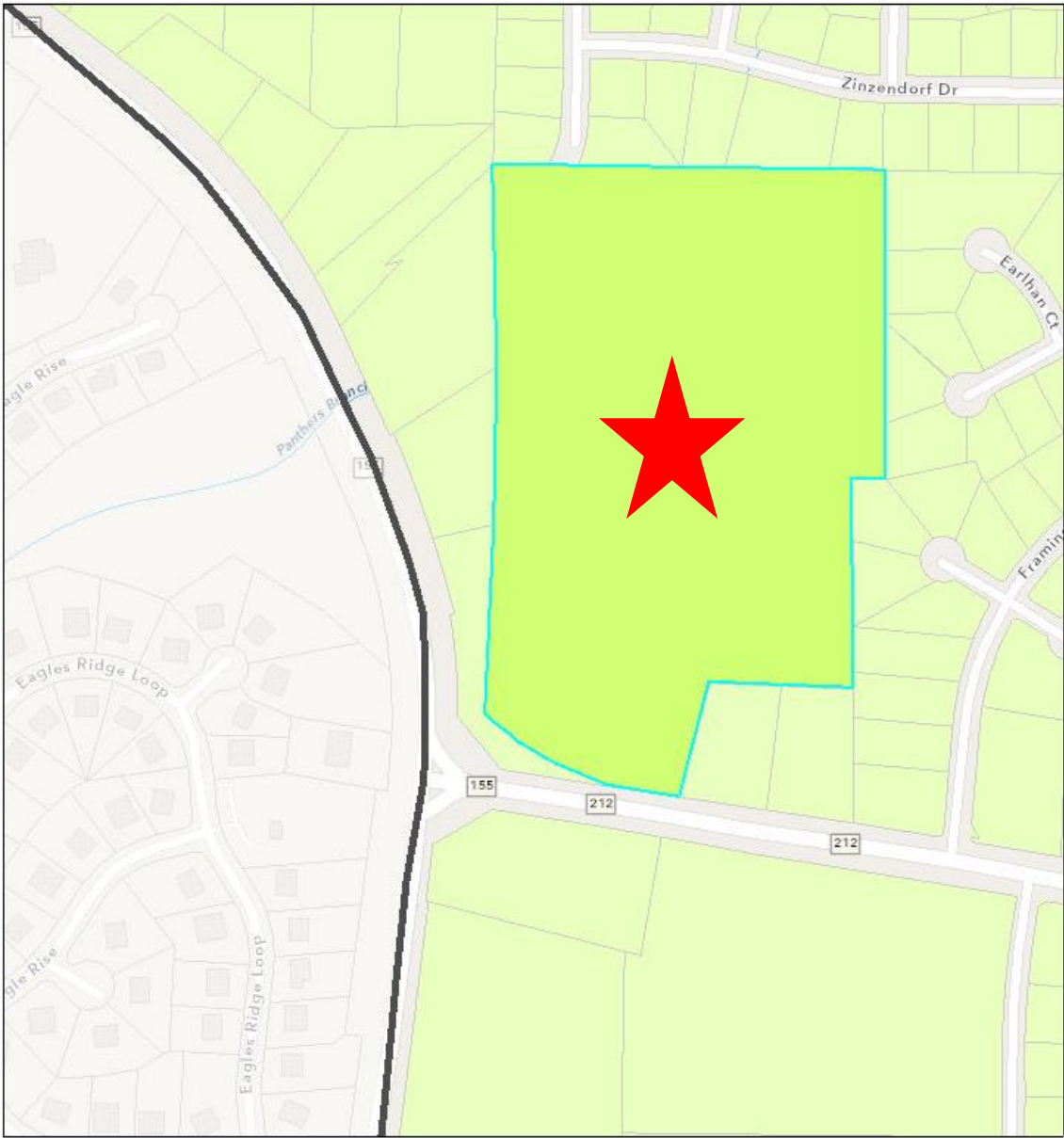


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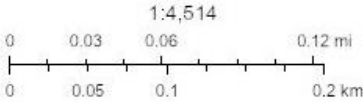


Zoning Map

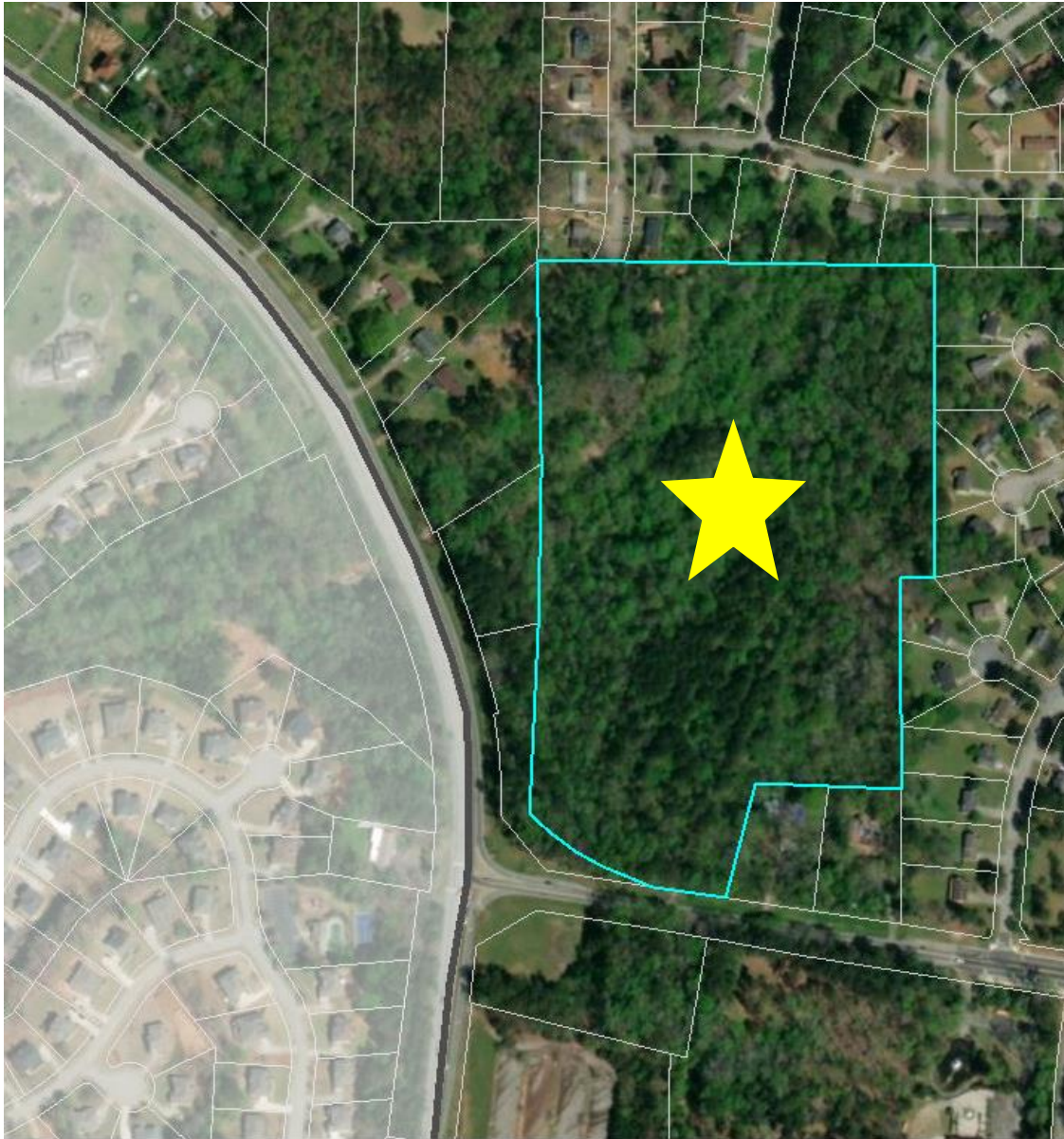


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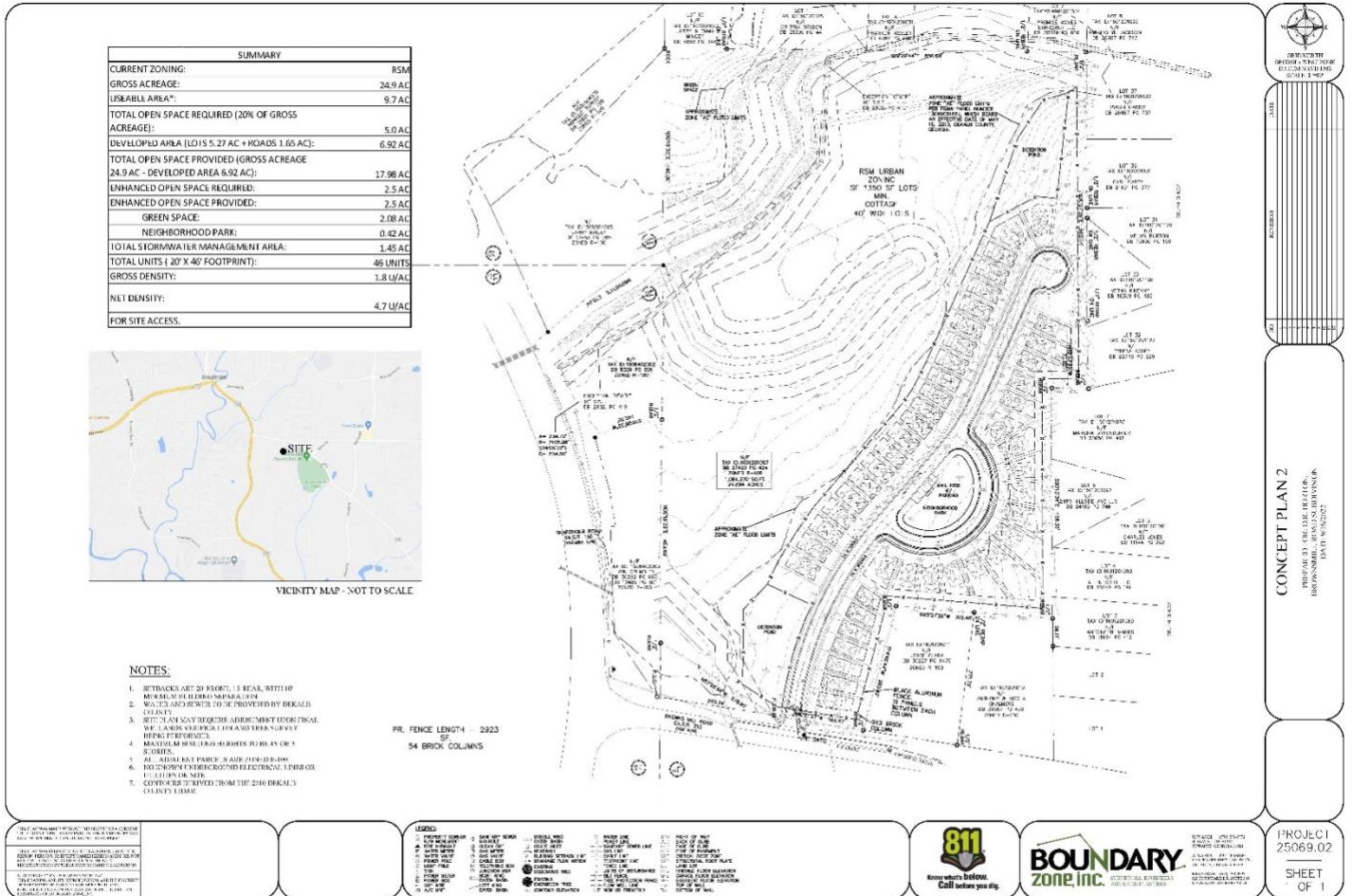
- | | |
|--------------------|---------------------------------|
| Stonecrest Parcels | Zoning |
| City Limits | R-100 - Residential Med Lot |
| DeKalb Parcels | RSM - Small Lot Residential Mix |



Aerial Map



Submitted Site Plan





Zoning Conditions – CZ-05-32

City Of Hope Ministries, Inc.
Z-05-32
Rezoning Conditions

COMM. _____
ITEM NO. H-11 6/14/05
CLERK'S OFFICE Comm. H. Johnson

1. The maximum number of units shall be 112 single family attached townhome units.
2. The development ^{shall} ~~will~~ include sidewalks on both sides of ^{all} ~~internal~~ streets, underground utilities, and streetlights.
3. There shall be no vinyl or aluminum siding used within the development. All buildings shall have exteriors of brick, stucco, stone or other masonry, "Hardi-Plank" clapboards, cedar shake or shingles, or some combination of these materials.
4. The applicant agrees to provide for adequate turn lanes into the development ^{as determined by} ~~subject to approval of~~ DeKalb and Georgia DOT.
5. Each entrance to the development ^{will have} ~~shall have~~ a decorative landscaped entrance. The design plan shall be submitted with the sketch plat approval application and shall be subject to review ^{and approval} ~~by~~ by the Planning Commission.
6. The proposed development shall be conditioned upon the concept site plan prepared by James Harwick Partners dated March 3, 2005.
7. Any and all single family attached townhome unit(s) shall have a minimum heated floor area of 700 square feet.
8. There shall be an entrance monument identifying the development, to be constructed out of brick or stacked stone.
9. The roofing materials shall ^{be} ~~include~~ three dimensional, architectural styled shingles.
10. The entrance to the development shall be gated, and fencing around the community shall be black aluminum with columns of either brick or stacked stone.

including the decorative landscaped entrance
g/h

6/14/05



RZ-23-003

Planning and Zoning Department

Letter of Intent



RZ-23-003

Planning and Zoning Department

Environmental Site Analysis



Battle Law