

RZ-21-003 Attachment 1: Staff Report



PLANNING & ZONING STAFF REPORT

RZ-21-003

City Council Regular Meeting: November 22, 2021

GENERAL INFORMATION

Petition Number: RZ-21-003

Applicant: Apex Land Company, LLC

Owner: Zacharia Majed; Mohammed Al Mulki Rania; Amir Haffer

Project Location: 3177 Panola Rd and 5207 Thompson Mill Road,
Parcel Numbers 16 022 01 245 and 16 022 01 023

District: District 3 – Jazzmin Cobble

Acreage: Approximately 9.56 acres

Existing Zoning: R-100 (Residential Med Lot) District and NS (Neighborhood Shopping)

Proposed Zoning: RSM (Small Lot Residential)

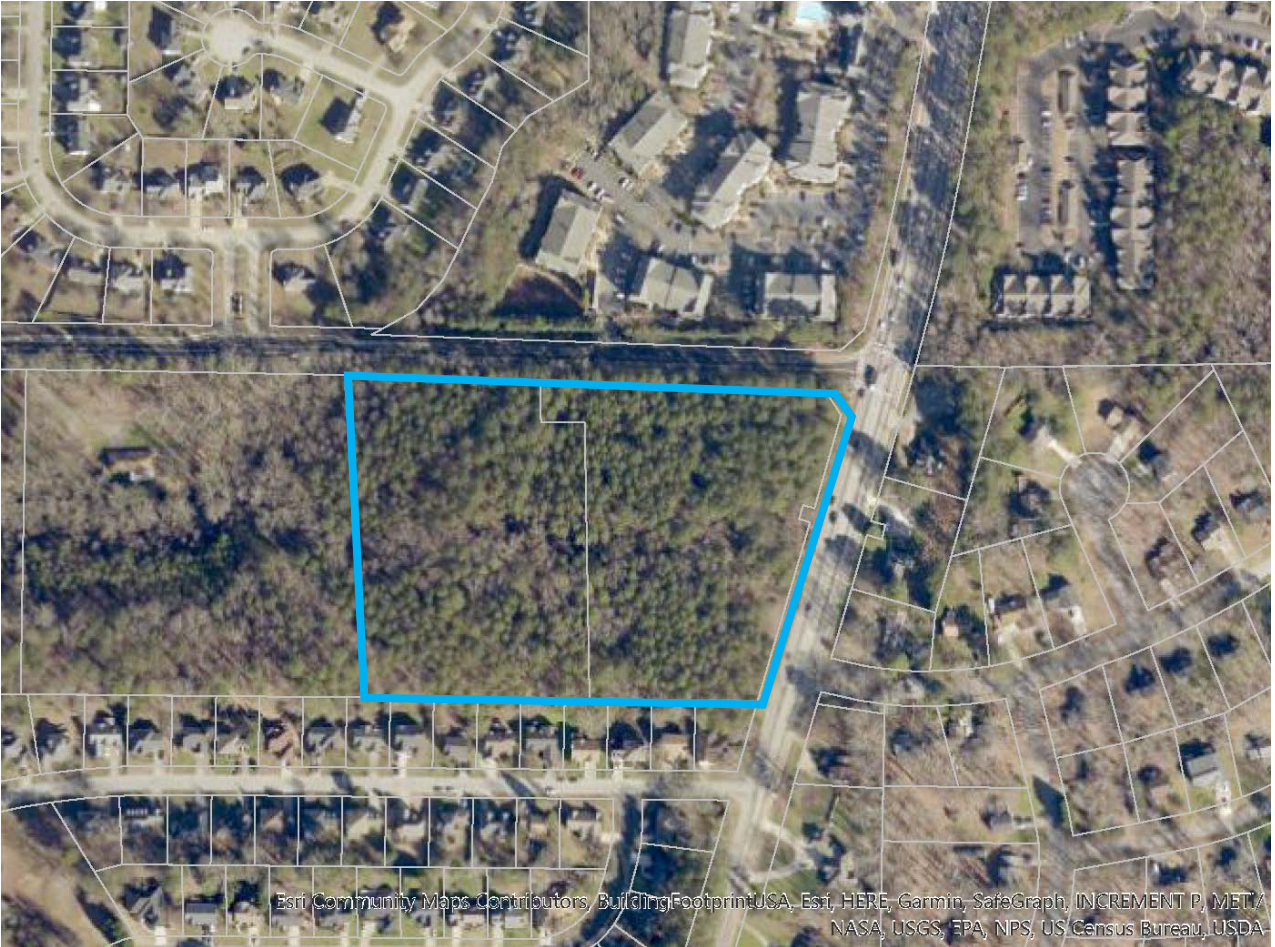
Comprehensive Plan Character Area Designation: Suburban Neighborhood

Proposed Development/Request: A 65-unit townhome community

Staff Recommendations: **Approval with conditions**

Planning Commission Recommendation: **Planning Commission recommended Approved with conditions on September 7, 2021.**

Aerial Map



Zoning Case: RZ-21-003

Address: 3177 Panola Road and 5207 Thompson Mill Road



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Zoning Map



Zoning Case: RZ-21-003

Current Zoning: R-100 and NS

Address: 3177 Panola Road and 5207 Thompson Mill Road

Proposed Zoning: RSM

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PROJECT OVERVIEW

Location

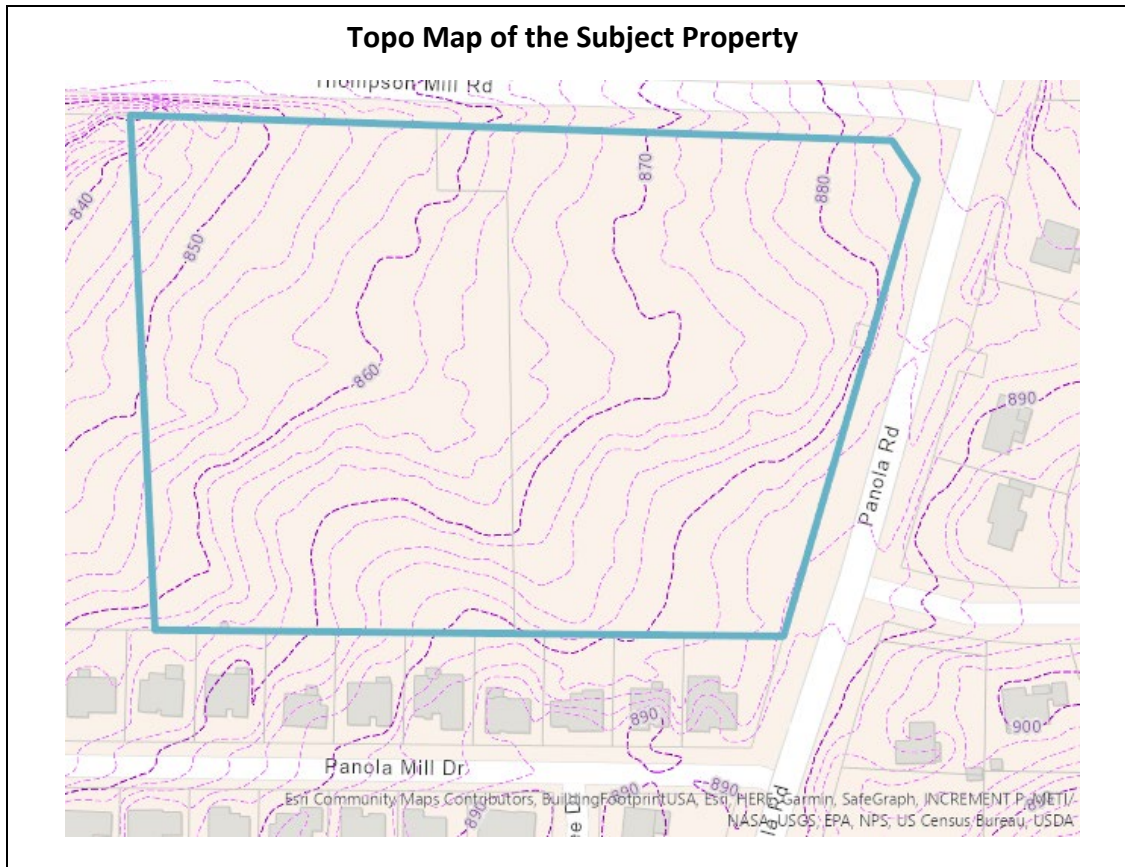
The subject property is located at 3177 Panola Road and 5207 Thompson Mill Road. The property is located at the intersection of Thompson Mill Rd and Panola Road.

The property is bounded by Thompson Mill Road to the north, a single family home to the west. Panola Mill Subdivision to the South, and Panola Road to the east. Winslow Crossing Subdivision is located across Panola Road to the east, and Cavalier @100 apartment complex is located across Thompson Mill Road to the north.

Background

Currently, the property is vacant, and zoned for single-family residential, R-100 and Neighborhood Shopping. The subject property was previously rezoned by DeKalb County in 2008, CZ-08-15000 for a 25,000 sf shopping center, see attached DeKalb County case report.

The topography of the property relatively level sloping away from Panola Road toward to stream to the west of the site. The site is currently wooded. There are no streams on the property, but a stream does traverse near the northwest corner of



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Elevations (see attached application materials for full set of elevations.)



FRONT ENTRY RENDERING





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Public Participation

The applicant did submit a public participation plan, and held multiple community meetings with the Panola Mills, Glencroft, Havenwood and Woodgrove communities via Zoom prior to August 3. These meetings did lead to scaling back of the density of original proposal for the development, see attached application materials. The applicant conducted another public meeting on September 1. Prior to the September 7, 2021 Planning Commission meeting.

Traffic Analysis

Staff has received many emails voicing concerns over the potential impact of the development, particularly concerning increased traffic congestion and safety. A trip generation report, dated 6/8/2021 and prepared by Lumin8 Transportation Technologies indicates that the traffic impact to the area for residential use would be half that if developed as currently approved for retail development. The applicant did not prepare a traffic study as requested by the Planning Commission, but as stated earlier did scale down the proposed density of the development, which would reduce any potential traffic impacts.

STANDARDS OF REZONING REVIEW

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

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

The subject property is located within the Suburban character area of the Stonecrest 2038 Comprehensive Plan, as described on page 128 of the Comp Plan.

“The intent of the Suburban Neighborhood 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. These areas include those developed (built out) and those under development pressures. Those areas are characterized by low pedestrian orientation, limited transit access, scattered civic buildings and curvilinear street patterns. The proposed density for areas of this type is up to 8 dwelling units per acre.”

The residential requested density is within the policy guidelines of Comp Plan.

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

As described before, the subject property is surrounded by residential uses, and proposed townhome development is more suitable to the residential character of the area than currently permitted retail development, see previous zoning map.



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

The property is currently zoned R-100 and NS, and does have limited economic use as currently zoned, though market conditions have not favored development, The requested use of the property is less intensive than that as currently zoned, and considered to have more market value or greater economic use.

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

The proposed zoning proposal is not anticipated to have a negative impact on the existing use or usability of adjacent or nearby properties. Staff believes the suggested zoning for a townhome development would complement the area better than the currently allowed use of a shopping center.

E. 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 changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.

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

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

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

According to a trip generation report, dated 6/8/2021 and prepared by Lumin8 Transportation Technologies the traffic impact to the area for residential use would be half that if developed as currently approved for retail development. As also indicated in a memo from the City Engineer dated June 14, planned improvements to Thompson Mill Road for widening from 2 to 4 lanes and for its intersection with Panola Road will help to mitigate the negative impacts of the proposed development and a full traffic study is not required for the site, as it does not meet the 190 units requirement for such a study.

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

Environmental Site Analysis included in the application indicates no significant environmental impact. The zoning proposal will not adversely impact the environment or surrounding natural resources. Steps are being taken to mitigate any potential stormwater runoff.



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STAFF RECOMMENDATION

The applicant meets all the criteria for approval. Therefore, staff recommends **APPROVAL** of **RZ-21-003** the following condition:

1. The future development of the site shall be for a maximum of 65 townhome units, and in general conformity with conceptual plan submitted with this rezoning application amendment prepared by Contineo Group for Apex Land Company and dated 8/27/21.
2. The roof line for each building shall be varied.
3. Exterior building materials shall comply with the Article 5 standards of the Stonecrest Zoning Ordinance. The front façade of the units shall incorporate multiple textures and materials similar to the elevations submitted to the Stonecrest Planning Department.
4. A 20ft undisturbed buffer, along with a 10ft landscape strip, shall be in place along the southern boundary line of the Subject Property.
5. Opaque privacy fencing shall be placed along or near the perimeter of the southern boundary line of the property adjacent to the Panola Mills subdivision.
6. There shall be a Mandatory Homeowners Association which shall own and maintain the common areas, and enforce the covenants placed on the townhome community.
7. The maximum height of the units shall be 2 stories or 35ft in height.
8. Prior to the issuance of any land disturbance permit, the Applicant must provide evidence of a legal mechanism under which all land to be held in common and used for greenspace purposes within the development shall be protected in perpetuity. Such legal mechanism shall include a declaration of restrictive covenants and the formation of a homeowner association, which assure in perpetuity each of the following mandatory requirements:
 - a. That all land held in open space will remain undivided and shall not be subdivided or removed from joint access or benefit in perpetuity;
 - b. That all subsequent property owners in the development will be placed on notice of this development restriction through the deed records filed with the Superior Court of DeKalb County;
 - c. That all land held as greenspace will be properly maintained and that no liability or maintenance responsibilities for the land held as greenspace shall accrue to the City of Stonecrest (the "City");
 - d. That a legal entity exists for notice of deficiencies in maintenance of the land held as greenspace, correction of these deficiencies, and assessment of liens against the properties for the cost of the correction of these deficiencies by a third party or the City;
 - e. That the legal mechanism will become effective and enforceable prior to or at the time of recording the final plat and the sale of any individual properties within the Subject Property; and
 - f. That all requirements of the legal mechanism used to comply with the regulations of this condition will be specified on the final plat to be recorded with the Clerk of Superior Court of DeKalb County.
 - g. Equal access and right of use to all greenspace by all homeowners;
 - h. Mandatory and automatic membership in the homeowners' association for all homeowners and their successors;
 - i. A fair and uniform method of assessment and collection/payment for dues, maintenance and related costs;
 - j. Homeowners' association lien authority to ensure the collection of dues from all members;
 - k. Perpetual and continued maintenance and liability by the homeowners' association of land held as greenspace; and
 - l. Filing of all required covenants, declarations, and restrictions with the Clerk of the Superior Court of DeKalb County.



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- m. The recorded covenants shall contain a 15% rental restriction, which rental restriction shall be enforced solely by the Homeowner's Association to the extent permitted by law, with an exception for active military personal that are required to relocate. THE CITY WILL VERIFY THAT THE 15% RENTAL RESTRICTION IS IN THE DECLARATION OF RESTRICTIVE COVENANTS RECORDED SIMULTANEOUSLY WITH THE FINAL PLAT FOR THE COMMUNITY, HOWEVER, THE CITY HAS NO ABILITY TO ENFORCE THE RENTAL RESTRICTION AND DOES NOT EXPRESS ANY OPINION AS TO THE ENFORCEABILITY OF RENTAL RESTRICTIONS IN RESIDENTIAL COMMUNITIES.
9. Each unit shall have either a 1 or 2 car garage with each unit having a pad in front for two cars. Additionally, the development shall provide a minimum of 29 guest parking spaces.
10. The access on Panola Road shall be a right in-right out only, and a deceleration lane shall be installed.
11. A 5ft sidewalk and minimum 6ft landscape strip shall be installed along the property frontage on Thompson Mill Road and Panola Road. Additionally, the sidewalk on Panola Road shall connect offsite into the existing sidewalk in front of the Panola Mill Subdivision.
12. The development shall provide a minimum of 20% enhanced open space.

Attachment 2:

RZ-21-003 Application Amendment VsfW
August 27 1 \$' \$#ž



Battle Law

August 27, 2021

VIA: Email {jsummerbell@stonecrestga.gov}

CLIENT/MATTER REF: Apex Land Company, LLC., 3177 Panola Road & 5207 Thompson Mill Road, Stonecrest, GA

Attn: Jim Summerbell, AICP
Planning and Zoning Director
City of Stonecrest Planning and Zoning Division
3120 Stonecrest Boulevard, Suite 190
Stonecrest, GA 30038

Mr. Summerbell,

We hereby submit this amended Site Plan and amended Statement of Intent in reference to the above-mentioned application, located on Panola Road and Thompson Mill Road, Stonecrest, GA. Please find the latest documents, attached. Thank you.

Best,

Dani Blumenthal

Danielle Blumenthal
Urban Planner
Email: dlb@battlelawpc.com

**AMENDED AND RESTATED
STATEMENT OF INTENT**

And
Other Material Required by the City of Stonecrest, Georgia Zoning Ordinance
For

A Rezoning from NS and R-100 to RSM pursuant to the City of
Stonecrest Zoning Ordinance

Of

Apex Land Company, LLC.
c/o Battle Law, P.C.

For

+/- 9.56 acres of Land being all of
Parcel Nos. 16 022 01 245 and 16 022 01 023
Being in the 3rd District, City of Stonecrest

Submitted for Applicant by:

Michèle L, Battle
Battle Law, P.C.
3562 Habersham at Northlake
Building J, Suite 100
Tucker, GA 30084

I. STATEMENT OF INTENT

Apex Land Company, LLC. (the “Applicant”) is seeking a rezoning for property located at the corner of Panola Road and Thompson Mill Road. The property is comprised of addresses 3177 Panola Road and 5207 Thompson Mill Road, bearing the parcel numbers 16 022 01 245 and 16 022 01 023, (the “Subject Property”). The Subject Property is currently zoned R-100 and NS with a land use designation of Suburban. The Applicant is seeking a rezoning to rezone the Subject Property to RSM for the development of a sixty-five (65) unit fee simple townhome community.

In addition to the above and the following the Applicant would like to point out that the Subject Property, as it lies today, is slated for development as a 25,000 square-foot shopping center. The NS zoning district, as well as the zoning conditions attached to the property, allow for the owner of this land to construct a shopping center in what is clearly a residential corridor. It is the contention of the Applicant that, in addition to the Rezoning Application Criteria below, the City Council take into consideration this fact. That intense of a use in this residential area would be highly out of place. This zoning proposal is much more in line with the abutting and nearby uses already in place and would improve upon them by creating a diversity of product and a transitional buffer between the apartments to the North and the single-family homes to the South and West.

This document is submitted both as a Statement of Intent with regard to this Application, a preservation of the Applicant’s constitutional rights, and the Rezoning Application Criteria. A surveyed plat and conceptual site plan of the Subject Property has been filed contemporaneously with the Application, along with other required materials.

III. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF APPLICANT’S CONSTITUTIONAL RIGHTS

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

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant’s Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of

Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

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

A refusal by the City of Stonecrest City Council to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

A refusal to allow the land use amendment and/or rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

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

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the City on notice that it may elect to file a claim in the Superior Court of DeKalb demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

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

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

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

A refusal to allow the special land use permit in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the simultaneous Future Land Use Amendment Application and Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application.

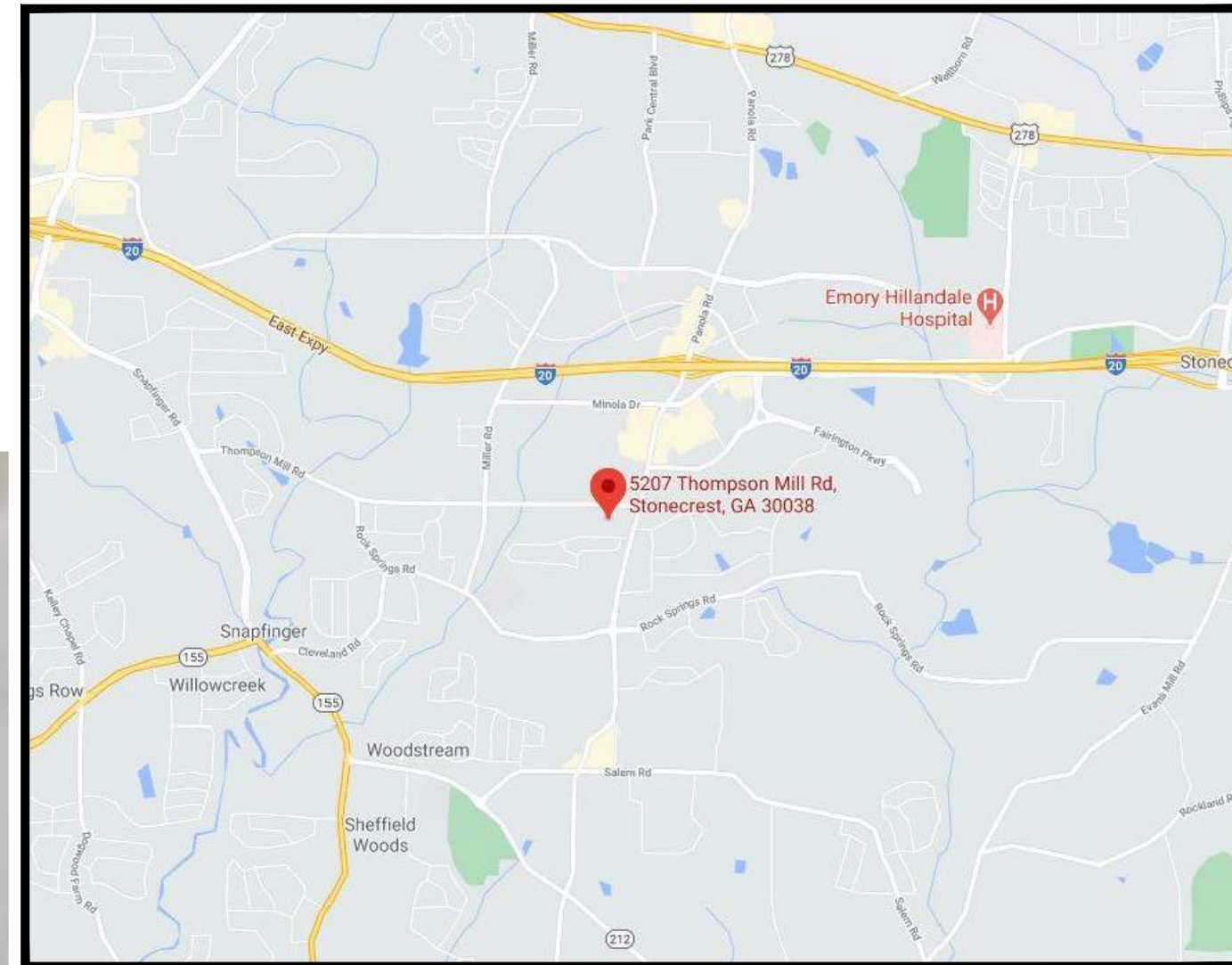
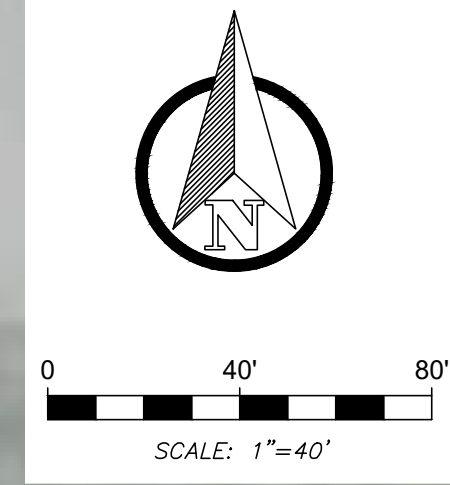
This 27th day of August 2021.

Respectfully submitted,



Michèle L. Battle, Esq.

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VICINITY MAP
N.T.S.

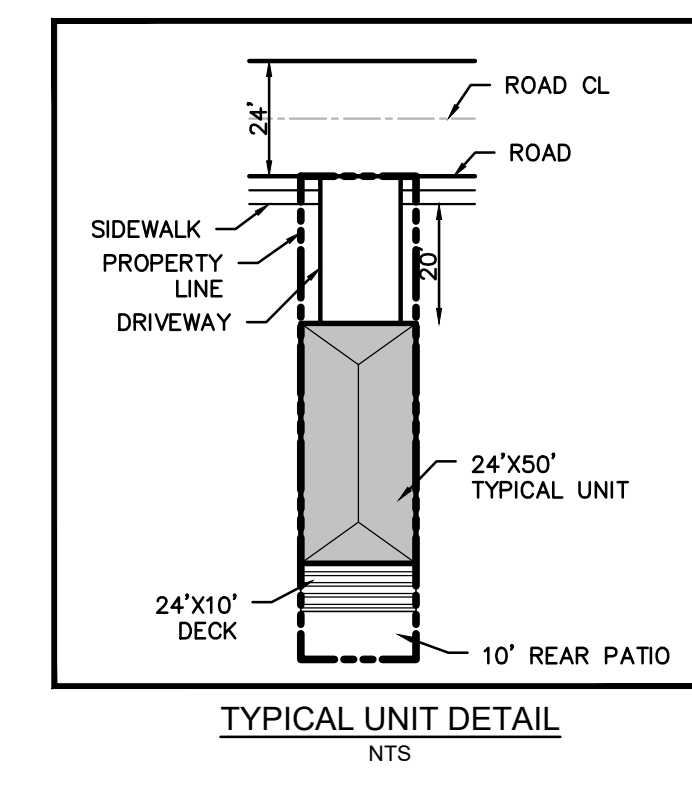
SITE LEGEND

- PROPERTY LINE
- BUILDING SETBACK/BUFFER
- XX XX XX FENCE
- (10) UNIT COUNT

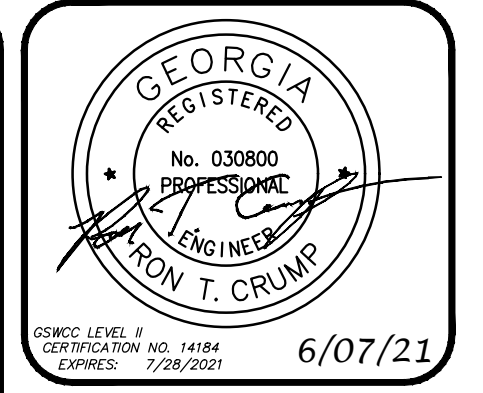
SITE DATA

LOCAL JURISDICTION	CITY OF STONECREST
PRIMARY PARCEL ID	1602201023, 1602201002
ZONING DESIGNATION	R-100/NS
PROPOSED ZONING	RSM
TOTAL PROPERTY ACREAGE	±9.59 ACRES
TOTAL DISTURBED ACREAGE	TBD
PROPOSED USE	TOWNHOMES
NUMBER OF UNITS	65
MAXIMUM HEIGHT	3 STORIES OR 45'
LOT COVERAGE	75%
FRONT SETBACK	0' + ROW + STREETSCAPE
SIDE SETBACK	0' MIN. WITH 10' BETWEEN BLDGS
REAR SETBACK	20'
OPEN SPACE PROVIDED	4.87 Acres (50.7% OF TOTAL)
STREETSCAPE(FRONTAGE ROAD)	6' LANDSCAPE STRIP +5' SIDEWALK
TRANSITIONAL BUFFER	20' FROM RSM ZONING

DENSITY BONUS: (DWELLING UNITS PER ACRE (DU/ACRE))	
CHARACTER AREA:	NEIGHBORHOOD CHARACTER AREA
BONUS TYPES IN PROJECT:	PUBLIC IMPROVEMENTS (EXTENDED SIDEWALK) ADDITIONAL ENHANCED OPEN SPACE (20%)
METHOD: MULTIPLY THE BASE X % = ADDITIONAL UNITS ELIGIBLE	
STEP 1: CALCULATE DENSITY GAINED BY BONUS TYPE:	
PUBLIC IMPROVEMENTS:	ENHANCED OPEN SPACE (20%)
BASE DENSITY: 4	BASE DENSITY: 4
% BONUS: 20%	% BONUS: 50%
BASE X 20% = 4 X 20% = 0.8	BASE X 50% = 4 X 50% = 2
STEP 2: ADD BONUS DENSITY TO BASE DENSITY	
BASE + CUMULATIVE BONUS = TOTAL DENSITY ALLOWED	
4 + (0.8 + 2) = 6.80 DU/ACRE CALCULATED DENSITY	
USE DENSITY FOR RSM = 6.80 DU/ACRE	
STEP 3: PROPOSED DENSITY	
TOTAL UNITS PROPOSED / TOTAL AREA = PROPOSED UNITS PER ACRE	
65 UNITS / 9.56 ACRES = 6.77 DU/ACRE	



TYPICAL UNIT DETAIL
NTS



CONTINUED GROUP
7555 COMMERCE DRIVE
SUITE 600
DECATUR, GA 30030
770.335.7403
www.tcg.engineer



APEX
LAND COMPANY

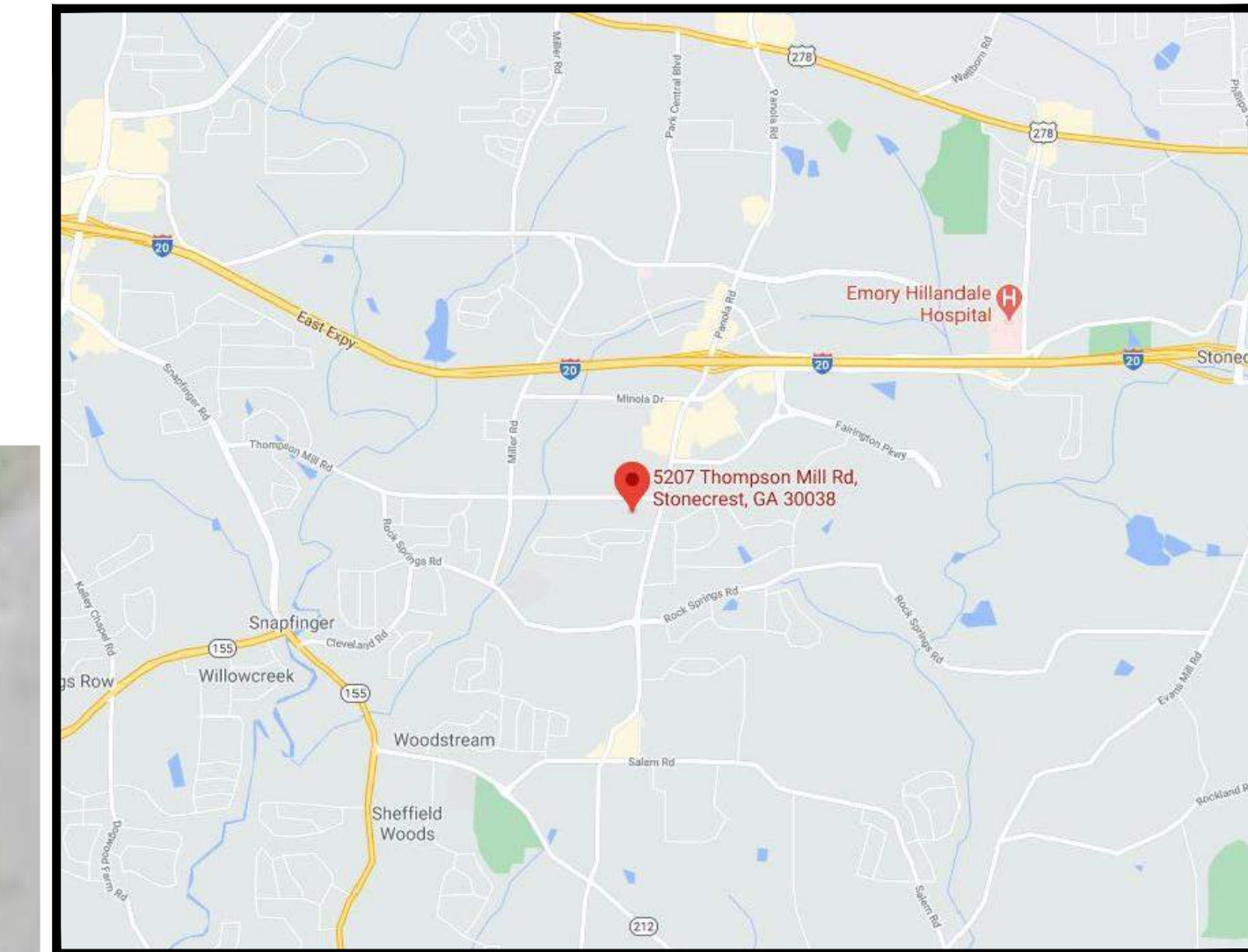
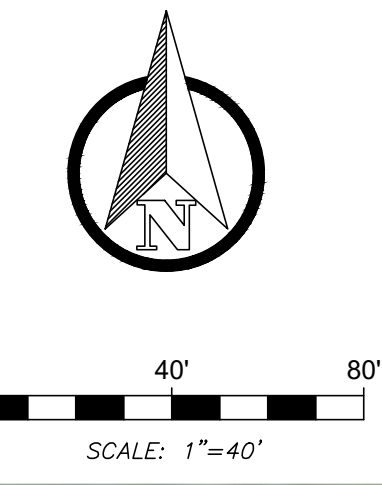
THOMPSON MILL &
PANOLA ROAD
ISSUED FOR: CONCEPT
JURISDICTION: CITY OF STONECREST
LOCATION: 5207 & 5165 THOMPSON MILL RD
LITHONIA, GA

#	DATE	REVISIONS

DRAWN:	CHECK:
EGS	BHR
JOB NO:	DATE:
21-120	08/27/21

CONCEPT
PLAN 9
SHEET
C100

D:\DROPPBOX (CONTINUED-MASTER)\DROPPBOX (CONTINUED-MASTER)\P-DRAWING PROJECTS\2021\1-120 - SHEFCO - PANOLA & THOMPSON MILL ASSEMBLY\DWG\21-120-CP09-RSM



VICINITY MAP
N.T.S.

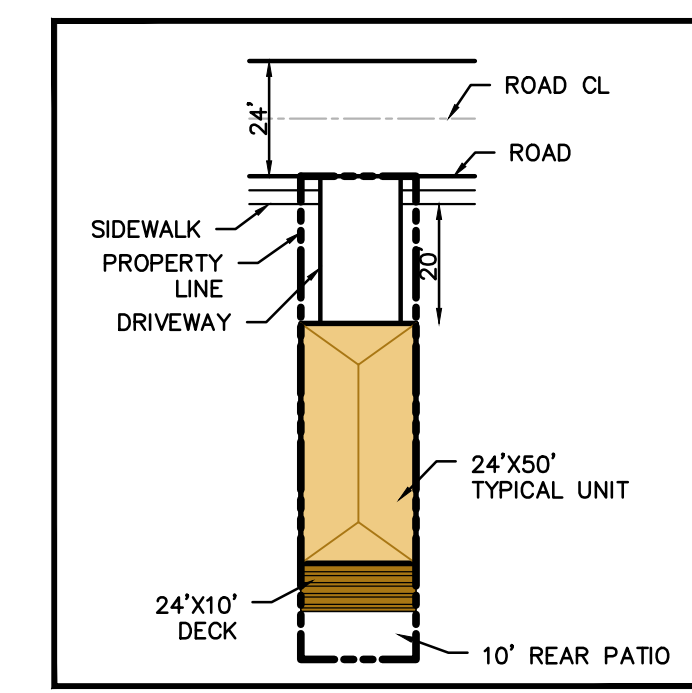
SITE LEGEND

- PROPERTY LINE
- BUILDING SETBACK/BUFFER
- XX XX XX FENCE
- (10) UNIT COUNT

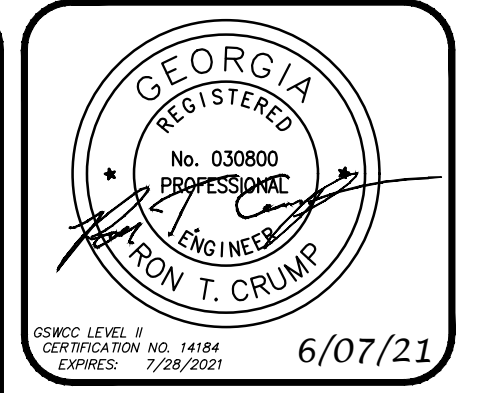
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PROPOSED ZONING	RSM
TOTAL PROPERTY ACREAGE	±9.59 ACRES
TOTAL DISTURBED ACREAGE	TBD
PROPOSED USE	TOWNHOMES
NUMBER OF UNITS	65
MAXIMUM HEIGHT	3 STORIES OR 45'
LOT COVERAGE	75%
FRONT SETBACK	0' + ROW + STREETSCAPE
SIDE SETBACK	0' MIN. WITH 10' BETWEEN BLDGS
REAR SETBACK	20'
OPEN SPACE PROVIDED	5.32 Acres (55.5% OF TOTAL)
STREETSCAPE(FRONTAGE ROAD)	6' LANDSCAPE STRIP + 5' SIDEWALK
TRANSITIONAL BUFFER	20' FROM RSM ZONING

DENSITY BONUS: (DWELLING UNITS PER ACRE (DU/ACRE))	
CHARACTER AREA:	NEIGHBORHOOD CHARACTER AREA
BONUS TYPES IN PROJECT:	PUBLIC IMPROVEMENTS (EXTENDED SIDEWALK) ADDITIONAL ENHANCED OPEN SPACE (20%)
METHOD:	MULTIPLY THE BASE X % = ADDITIONAL UNITS ELIGIBLE
STEP 1: CALCULATE DENSITY GAINED BY BONUS TYPE:	
PUBLIC IMPROVEMENTS	
BASE DENSITY: 4	ENHANCED OPEN SPACE (20%)
% BONUS: 20%	% BONUS: 50%
BASE X 20% = 4 X 20% = 0.8	BASE X 50% = 4 X 50% = 2
STEP 2: ADD BONUS DENSITY TO BASE DENSITY	
BASE + CUMULATIVE BONUS = TOTAL DENSITY ALLOWED	
4 + (0.8 + 2) = 6.80 DU/ACRE CALCULATED DENSITY	
USE DENSITY FOR RSM = 6.80 DU/ACRE	
STEP 3: PROPOSED DENSITY	
TOTAL UNITS PROPOSED / TOTAL AREA = PROPOSED UNITS PER ACRE	
65 UNITS / 9.56 ACRES = 6.77 DU/ACRE	



TYPICAL UNIT DETAIL
NTS



CONTINUED GROUP
7555 COMMERCE DRIVE
SUITE 600
DECATUR, GA 30030
770.335.7403
www.tcgengineer.com



APEX
LAND COMPANY

THOMPSON MILL &
PANOLA ROAD
ISSUED FOR: CONCEPT
JURISDICTION: CITY OF STONECREST
LOCATION: 5207 & 5165 THOMPSON MILL RD
LITHONIA, GA

#	DATE	REVISIONS

DRAWN:	CHECK:
EGS	BHR
JOB NO:	DATE:
21-120	08/27/21

CONCEPT
PLAN 9
SHEET **C101**

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RZ-21-003:

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STATEMENT OF INTENT

And

Other Material Required by the City of Stonecrest, Georgia
Zoning Ordinance
For

A Rezoning from NS and R-100 to RSM pursuant to the City
of Stonecrest Zoning Ordinance

Of

Apex Land Company, LLC.,
For

+/-9.56 acres of Land
Being all of

Parcel Nos. 16 022 01 245 and 16 022 01 023
Being in 3rd District,
City of Stonecrest

Submitted for Applicant by:

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

I. STATEMENT OF INTENT

Apex Land Company, LLC. (the “Applicant”) is seeking a rezoning for property located at the corner of Panola Road and Thompson Mill Road. The property is comprised of addresses 3177 Panola Road and 5207 Thompson Mill Road, bearing the parcel numbers 16 022 01 245 and 16 022 01 023, (the “Subject Property”). The Subject Property is currently zoned R-100 and NS with a land use designation of Suburban. The Applicant is seeking a rezoning to rezone the Subject Property to RSM for the development of a seventy-six (76) unit fee simple townhome community.

In addition to the above and the following the Applicant would like to point out that the Subject Property, as it lies today, is slated for development as a 25,000 square-foot shopping center. The NS zoning district, as well as the zoning conditions attached to the property, allow for the owner of this land to construct a shopping center in what is clearly a residential corridor. It is the contention of the Applicant that, in addition to the Rezoning Application Criteria below, the City Council take into consideration this fact. That intense of a use in this residential area would be highly out of place. This zoning proposal is much more in line with the abutting and nearby uses already in place and would improve upon them by creating a diversity of product and a transitional buffer between the apartments to the North and the single-family homes to the South and West.

This document is submitted both as a Statement of Intent with regard to this Application, a preservation of the Applicant’s constitutional rights, and the Rezoning Application Criteria. A surveyed plat and conceptual site plan of the Subject Property has been filed contemporaneously with the Application, along with other required materials.

II. REZONING APPLICATION CRITERIA

A. 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. While the rezoning alone would not conform to the comprehensive plan, the combination of the rezoning and land use amendment does conform with the plan. Granting both will change the future land use from Suburban Neighborhood to Urban Neighborhood. This change will allow for the rezoning proposal from NS and R-100 to M-1 in full satisfaction of the comprehensive plan.

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;

The zoning proposal will permit a use that is suitable in view of the use and development

of adjacent and nearby properties. Currently, taking into consideration the future land use, zoning, and existing conditions on the Subject Property, it is slated to be developed as a shopping center. However, the property is almost exclusively surrounded by residential uses. The zoning proposal will allow the development of a residential use that will bring much less intensity to the residential developments that surround the Subject Property. Therefore, the zoning proposal will permit use that is suitable in view of the use and development of adjacent and nearby properties.

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

The Subject Property as currently zoned has an economic use, albeit an unreasonable one given the surrounding area. The Subject Property is currently laid out to be developed as a shopping center. The zoning, future land use, and current conditions were put in place for the purpose of developing a shopping center. So, while the Subject Property could be used for this economic end, putting a shopping center on this property would be an unreasonable burden on the surrounding residences. The shopping center would be built directly in the middle of various residential neighborhoods and would generate traffic late into the evening. The zoning proposal would allow for a townhome community to be built here instead, which would generate much less traffic than a shopping center.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The zoning proposal will be much more in line than what the Subject Property is currently laid out for. The proposed townhome community will serve as another residential development to serve the area's housing market. One detail to point out is that the ingress/egress plan is designed to maximize access to the nearby highway, while simultaneously minimizing the amount of traffic that would be traveling past neighboring communities. This is achieved by placing an exit at the Northern side of the Subject Property to allow quick access to the light, and thereby the highway. The ingress/egress on the Southeastern portion of the property will be a right-in/right-out only. This way, residences returning to their home can turn right into their community without having to cross the ingress/egress of the neighboring community to the South.

E. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;

The Applicant is not aware of any existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and

The zoning proposal will not adversely affect historic buildings, sites, district, or archaeological resources.

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

III. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF APPLICANT'S CONSTITUTIONAL RIGHTS

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

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

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

A refusal by the City of Stonecrest City Council to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and

owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

A refusal to allow the land use amendment and/or rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

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

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the City on notice that it may elect to file a claim in the Superior Court of DeKalb demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

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

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the

United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

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

A refusal to allow the special land use permit in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the simultaneous Future Land Use Amendment Application and Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 8th day of June, 2021.

Respectfully submitted,



Michèle L. Battle, Esq.
Attorney For Applicant



Applicant/Petitioner Notarized Certification

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

Applicant / Petitioner	Signature:		Date: 6/ 2/2021
	Address: 4080 McGinnis Ferry Road, Suite 203	City, State: Alpharetta, GA.	Zip: 30005
	Phone: 770-777-4704		
Sworn to and subscribed before me this <u>2</u> day of <u>June</u> , 20 <u>21</u>			
Notary Public: <u>Leah D. Carnes</u>			
Attorney / Agent	Signature:		Date: 6/ 1 /2021
	Address: One West Court Square, Suite 750	City, State: Decatur, GA.	Zip: 30030
	Phone: 404-601-7616		
Sworn to and subscribed before me this <u>1st</u> day of <u>June</u> , 20 <u>21</u>			
Notary Public:			





Affidavit
Notary
Fee


To the best of my knowledge, this zoning application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Stonecrest Zoning Ordinance.

Applicant's Name: Apex Land Company, LLC.

Applicant's Signature:  Date: 6/ 2 /2021

Sworn to and subscribed before me this 2 Day of June 20 21

Notary Public: Leah D. Carnes

Signature: 

My Commission Expires: 02/20/24



Application Fee Sign Fee Legal Fee

Fee: \$ Payment: Cash Check CC Date:

Approved Approved with Conditions Denied Date:


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



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: 
	Address: 4080 McGinnis Ferry Road, Suite 203, Alpharetta, GA. 30005
	Date: 6/2/2021

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

Date	Government Official	Official Position	Description	Amount



Campaign Disclosure Statement

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

Yes No

Applicant / Owner	Signature:
	Address: One West Court Square, Suite 750, Decatur, GA. 30030
	Date: 6/ 1 /2021

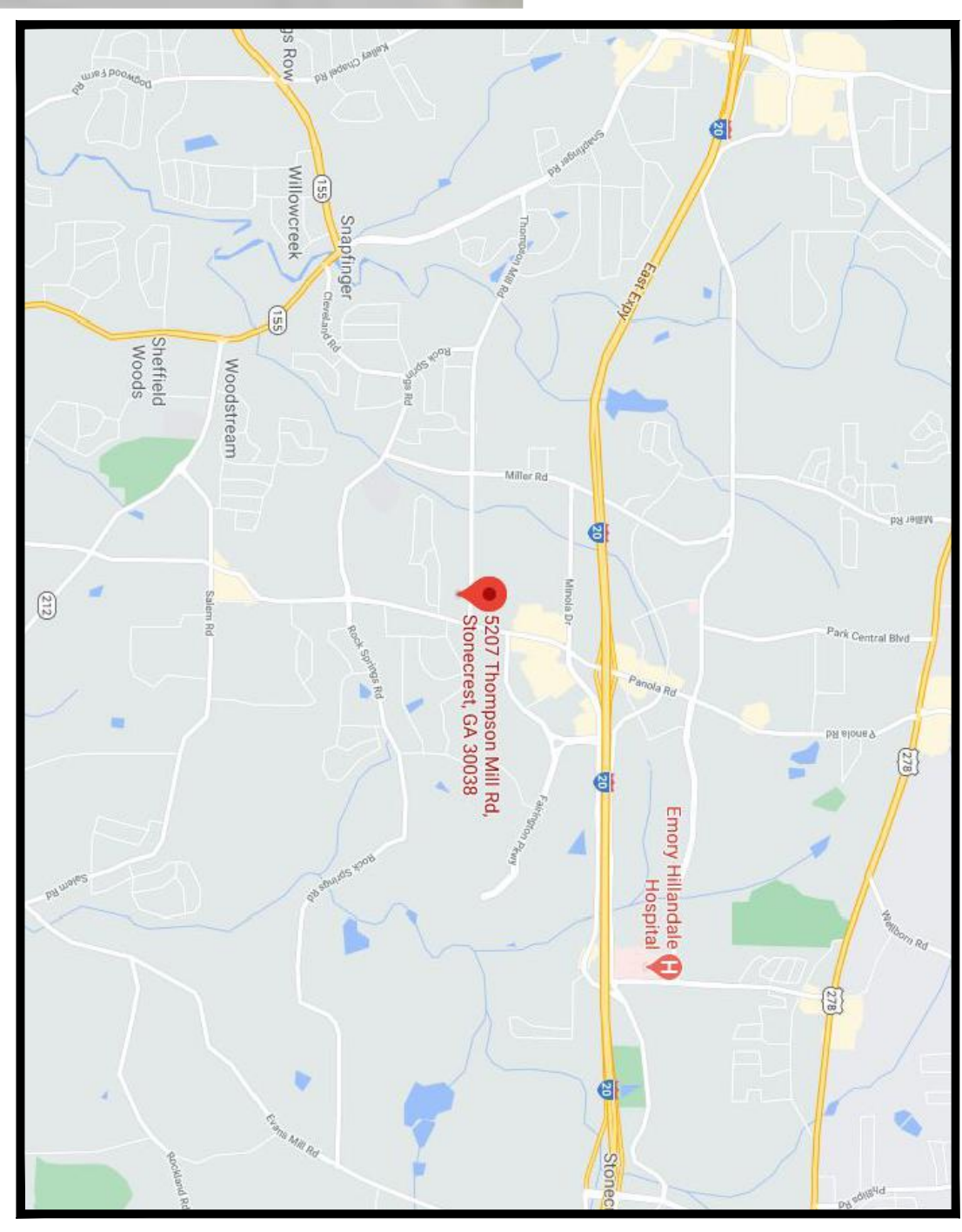
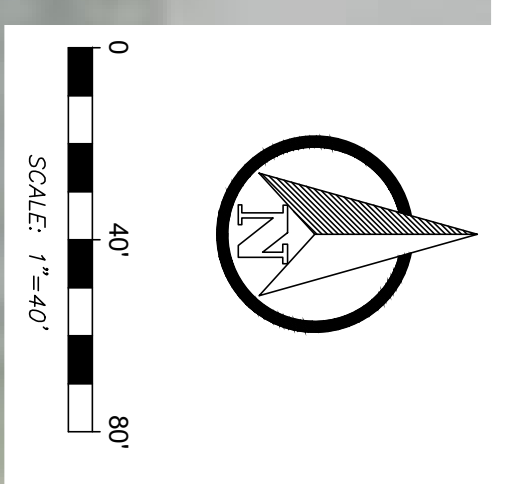
If you answered yes above, please complete the following section:

Date	Government Official	Official Position	Description	Amount

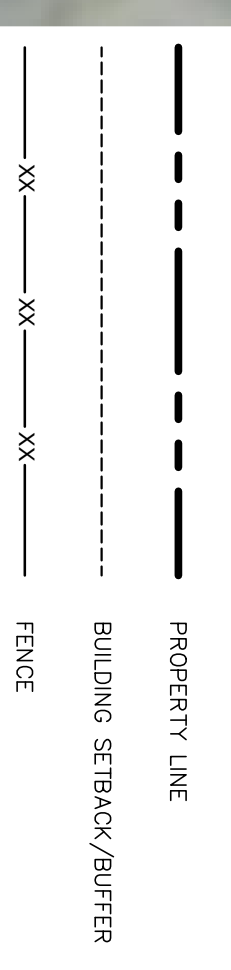


Rezoning Application

Owner Information	Owner's Name: Zacharia Majed; Mohammed Al Mulki Rania; Amir Haffer		
	Owner's Address: 1275 VINTAGE CLUB DR. DULUTH GA 30097		
	Phone:	Fax:	Email:
	Property Address: 3177 Panola Road and 5207 Thompson Mill Road		Parcel Size:
	Parcel ID: 16 022 01 245; 16 022 01 023		
	Current Zoning Classification: NS and R-100		
	Requested Zoning Classification: RSM		
	Name: Apex Land Company, LLC.		
	Address: 4080 McGinnis Ferry Road Suite 203, Alpharetta, GA. 30005		
	Phone: 770-7774704		Fax:
Cell: 404-732-4136		Email: aaronrissler@icloud.com	
Property Information	Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements? <div style="text-align: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</div>		
	1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties? <div style="text-align: center;">Yes.</div>		
	2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned? <div style="text-align: center;">Yes.</div>		
	3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property? <div style="text-align: center;">No.</div>		
	4. Are other existing or changing conditions affecting the existing use or usability of the development of the property which give supporting grounds for either approval or disapproval of the zoning proposal? <div style="text-align: center;">None that the Applicant are aware of.</div>		
	5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources? <div style="text-align: center;">No.</div>		
	6. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools? <div style="text-align: center;">No.</div>		
Questionnaire			



VICINITY MAP
N.T.S.



SITE DATA

LOCAL JURISDICTION	CITY OF STONECREST
PRIMARY PARCEL ID	1602201023, 1602201022
ZONING DESIGNATION	R-100/RSM
PROPOSED ZONING	RSM
TOTAL PROPERTY ACREAGE	4.959 ACRES
TOTAL DISTURBED ACREAGE	TBD
PROPOSED USE	TOWNHOMES
NUMBER OF UNITS	76
MAXIMUM HEIGHT	4 STORIES OR 60'
LOT COVERAGE	75%
FRONT SETBACK	0' + ROW + STREETSCAPE
SIDE SETBACK	0' MIN. WITH 10' BETWEEN BLDGS
REAR SETBACK	20'
OPEN SPACE PROVIDED	4.87 Acres (50.7% OF TOTAL)
STREETSCAPE (FRONTAGE ROAD)	6' LANDSCAPE STRIP + 5' SIDEWALK
TRANSITIONAL BUFFER	30' FROM RSM ZONING

DENSITY BONUS: (DWELLING UNITS PER ACRE (DU/ACRE))

CHARACTER AREA: NEIGHBORHOOD CHARACTER AREA

BONUS TYPES IN PROJECT: PUBLIC IMPROVEMENTS, SUSTAINABILITY ELEMENTS, ADDITIONAL ENHANCED OPEN SPACE

METHOD: MULTIPLY THE BASE X * = ADDITIONAL UNITS ELIGIBLE

STEP 1: CALCULATE DENSITY GAINED BY BONUS TYPE:

PUBLIC IMPROVEMENTS	SUSTAINABILITY ELEMENTS	ADDITIONAL ENHANCED OPEN SPACE
BASE DENSITY: 20%	BASE DENSITY: 20%	BASE DENSITY: 4
% BONUS: 20%	% BONUS: 100%	% BONUS: 100%
BASE X 20% = 4 X 20% = 0.8	BASE X 50% = 4 X 50% = 2	BASE X 100% = 4 X 100% = 4

STEP 2: ADD BONUS DENSITY TO BASE DENSITY

BASE + CUMULATIVE BONUS = TOTAL DENSITY ALLOWED

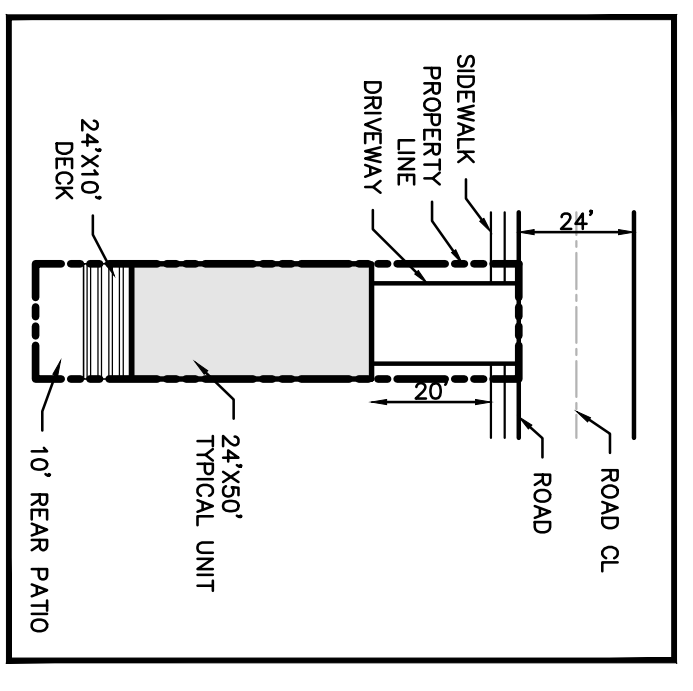
4 + (0.8 + 2 + 4) = 10.8 DU/ACRE CALCULATED DENSITY

USE MAX ALLOWED DENSITY FOR RSM = 8 DU/ACRE

STEP 3: PROPOSED DENSITY

TOTAL UNITS PROPOSED / TOTAL AREA = PROPOSED UNITS PER ACRE

76 UNITS / 3.98 ACRES = 19.34 DU/ACRE

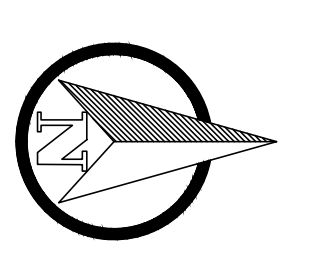
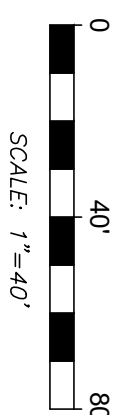
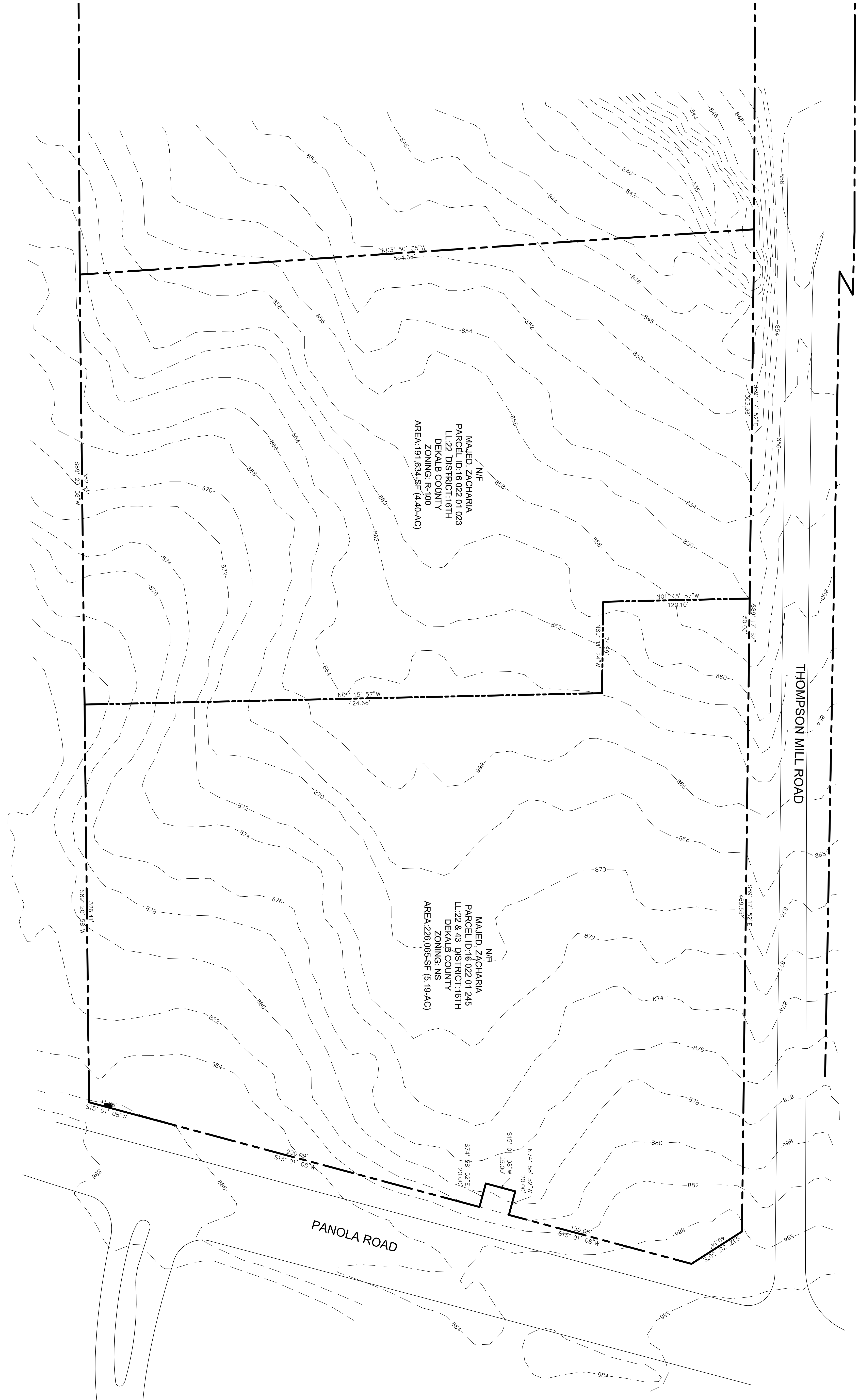


PRELIMINARY CONCEPT

NOTE: CONCEPTUAL DESIGN SHOULD BE UTILIZED AS A GRAPHICAL REPRESENTATION OF A POSSIBLE DESIGN CHOICE. THE INFORMATION ON THIS PLAN WAS DESIGNED FROM LIMITED MATERIAL AND HAS ITS INACCURACIES. THEREFORE, IT SHOULD NOT BE USED FOR CONSTRUCTION UNTIL ALL APPLICABLE MATERIAL NEEDED HAS BEEN REVIEWED AND INCORPORATED.

SHEET C100	CONCEPT PLAN 6		THOMPSON MILL & PANOLA ROAD ISSUED FOR: CONCEPT JURISDICTION: CITY OF STONECREST LOCATION: 5207 & 5165 THOMPSON MILL RD LITHONIA, GA	APEX LAND COMPANY	CONTINEO GROUP 755 COMMERCE DRIVE SUITE 800 DECATUR, GA 30030 770.335.9403 www.fcg.engineer
	DRAWN: EGS JOB NO.: 21-120 DATE: 06/07/21	CHECK: BHR			

These drawings and the design represented herein are the exclusive property of the Contineo Group. Reproduction or any use of these drawings other than for the project intended without the express written consent of the Contineo Group is prohibited. Any unauthorized use will be subject to legal action.



#	DATE	REVISIONS

These drawings and the design represented herein are the exclusive property of the Contineo Group. Reproduction or any use of these drawings other than for the project intended without the express written consent of The Contineo Group is prohibited. Any unauthorized use will be subject to legal action.

THOMPSON MILL & PANOLA ROAD

ISSUED FOR: CONCEPT
 JURISDICTION: CITY OF STONECREST
 LOCATION: 5207 & 5165 THOMPSON MILL RD
 LITHONIA, GA

**APEX
 LAND COMPANY**



CONTINEO GROUP
 755 COMMERCE DRIVE
 SUITE 800
 DECATUR, GA 30030
 770.335.9403
 www.fcg.engineer

**PROPERTY
 BOUNDARY**

DRAWN: SBA
 CHECK: BHR

JOB NO.: 21-120
 DATE: 06/07/21

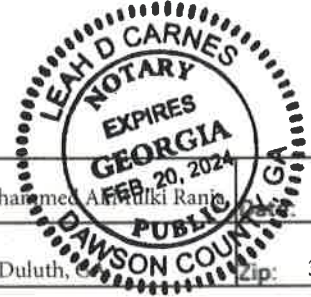
SHEET **S100**



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><i>M S Zakaria</i></u>	Zacharia Majed	Date: <u>6/7/2021</u>
	Address: 1275 Vintage Club Drive	City, State: Duluth, GA.	Zip: 30097
	Phone: <u>678-957-9293</u>		
	Sworn to and subscribed before me this <u>7</u> day of June, 20 <u>21</u>		
	Notary Public: <u>Leah D. Carnes</u>		
Property Owner (If Applicable)	Signature: <u><i>Genia O'Mullin</i></u>	Mohamed A. Rafiki Rana	Date: <u>6/7/2021</u>
	Address: 1275 Vintage Club Drive	City, State: Duluth, GA	Zip: 30097
	Phone: <u>404-931-2825</u>		
	Sworn to and subscribed before me this <u>7</u> day of June, 20 <u>21</u>		
	Notary Public: <u>Leah D. Carnes</u>		
Property Owner (If Applicable)	Signature: <u><i>Amin Hoffman</i></u>	Amin Haffer	Date: <u>6/7/2021</u>
	Address: 1275 Vintage Club Drive	City, State: Duluth, GA	Zip: 30097
	Phone: <u>404-252-7975</u>		
	Sworn to and subscribed before me this <u>7</u> day of June, 20 <u>21</u>		
	Notary Public: <u>Leah D. Carnes</u>		





FRONT ENTRY RENDERING



LEFT SIDE ELEVATION



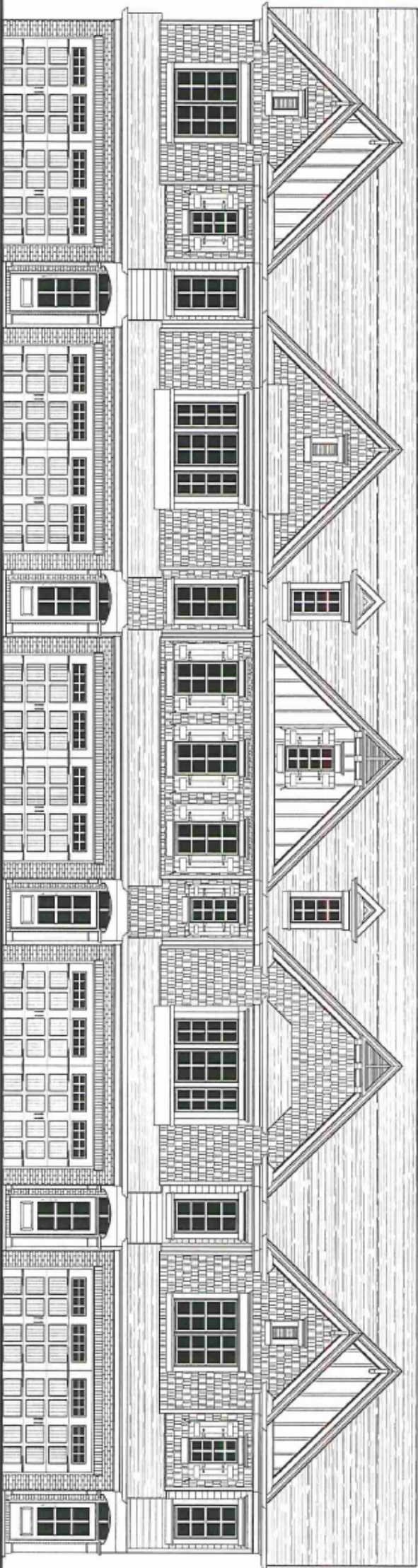
REAR ELEVATION



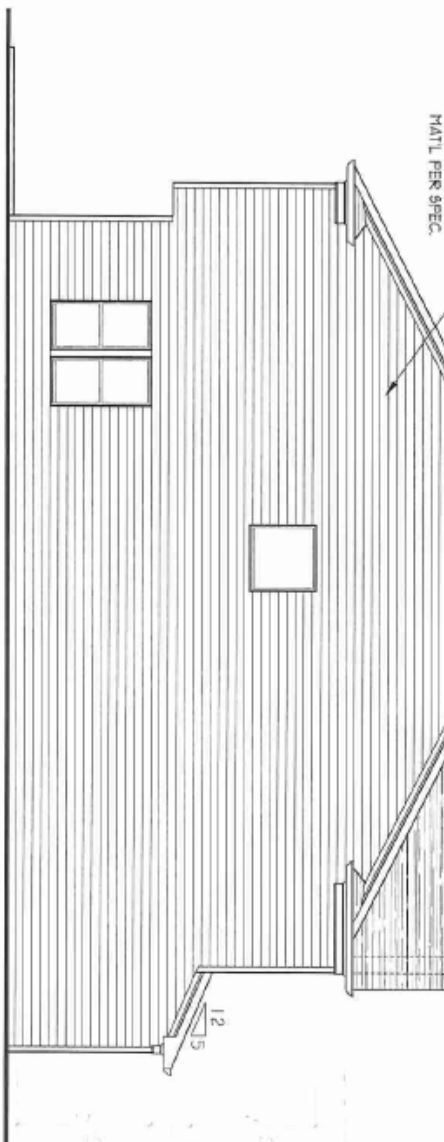
RIGHT SIDE ELEVATION

24' x 50' Front Entry Product Townhomes
Typical Side & Rear Elevations

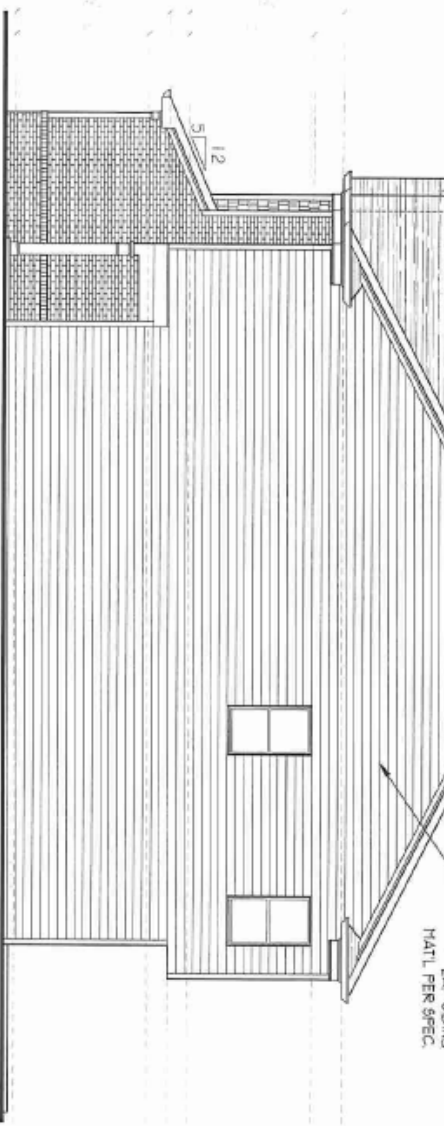




Front Elevation - 5 Units Building

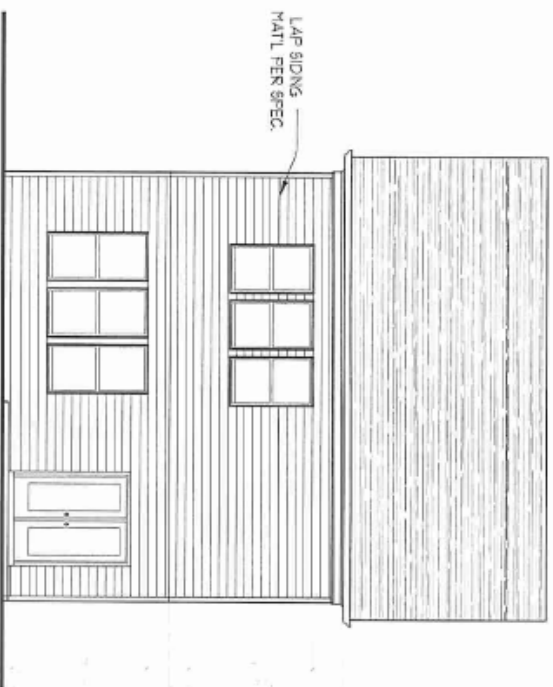


LEFT SIDE ELEVATION



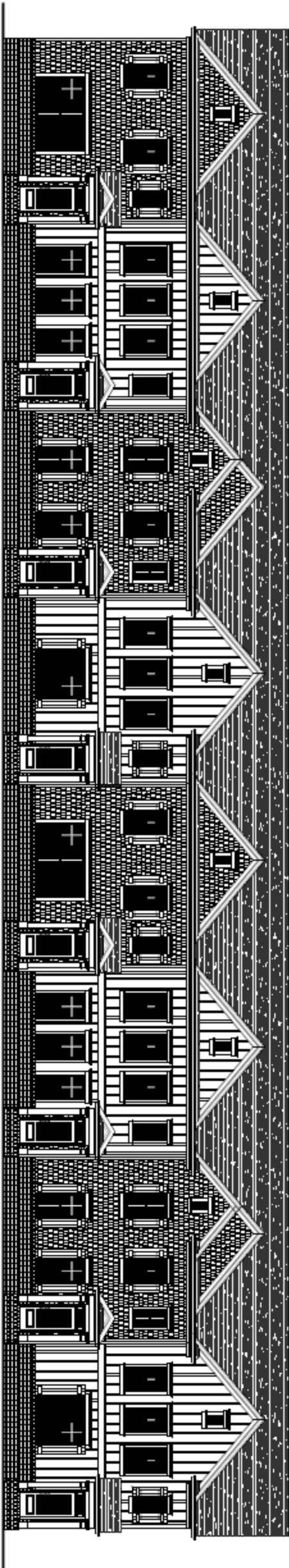
RIGHT SIDE ELEVATION

BUILDING ELEMENT		EXTERIOR MATERIALS:	
	MATERIAL		TYPE
FACADE	BRICK	QUEEN SIZE	
	BOARD & BATTEN	FIBER CEMENT PANEL SIDING W/ 1/2" BATTIS AT 12" OC.	
	SIDING	CONCRETE LAP SIDING	
FRONT OFFSET	SHAKE	HARDIE STRAIGHT LAY	
SIDES & REAR	BRICK	QUEEN SIZE	
	SIDING	CONCRETE LAP SIDING	
ROOF	ARCHITECTURAL SHINGLES	LANDMARK PRO	
SHED DORMER/ ACCENT ROOF	ARCHITECTURAL SHINGLES	LANDMARK PRO	
FRONT PORCH ROOF	ARCHITECTURAL SHINGLES	LANDMARK PRO	
PORCH FLOOR	CONCRETE	MONO	
FRONT WINDOWS	VINTL	SDL W/ GRILL & OVER 4, WHITE	
SIDE & REAR WINDOWS	VINTL	1 OVER 1, WHITE	
FRONT DOOR	WOOD	3/8x6/8 6-LITE/1 PANEL W/ 18" TRANSOM	



REAR ELEVATION

Sides & Rear Elevations





© 2017



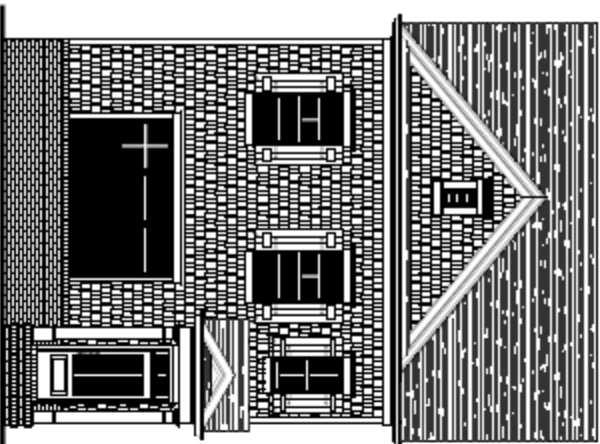
LEFT SIDE ELEVATION



REAR ELEVATION



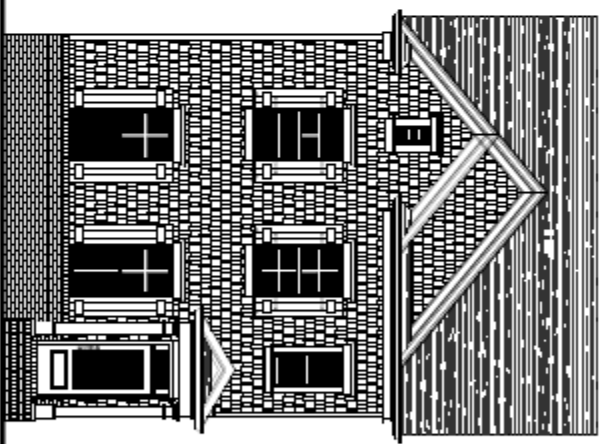
RIGHT SIDE ELEVATION



ELEVATION A



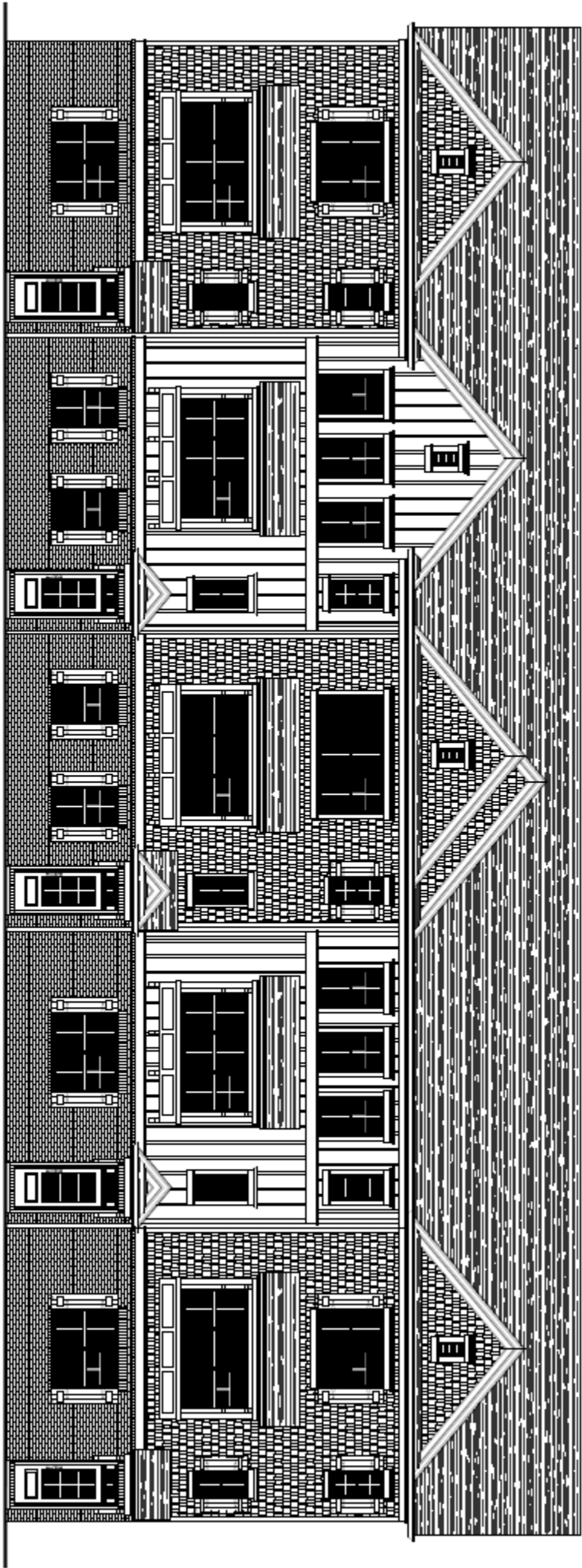
ELEVATION B



ELEVATION C



ELEVATION D

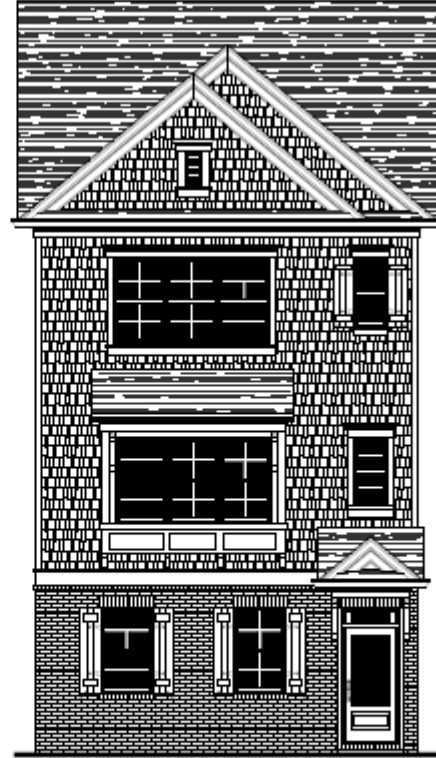




ELEVATION A



ELEVATION B



ELEVATION C



ELEVATION D

Attachment 3, RZ-21-003:

Technical Memorandums concerning traffic impacts

TECHNICAL MEMORANDUM

55 Millard Farmer Ind. Blvd.
Newnan, GA 30263
678.423.0050
www.Lumin8.com

Subject: Land Use Comparison
Location: Stonecrest, GA
Date: 06/08/2021
To: Aaron Rissler, Apex Land Company
From: Speedy Boutwell, PE, PTOE

INTRODUCTION

This technical memorandum includes conducting a trip generation comparison between a residential development and a retail development for the southwest corner of the Thompson Mill Road and Panola Road intersection in Stonecrest, GA. The proposed location is shown in Figure 1.

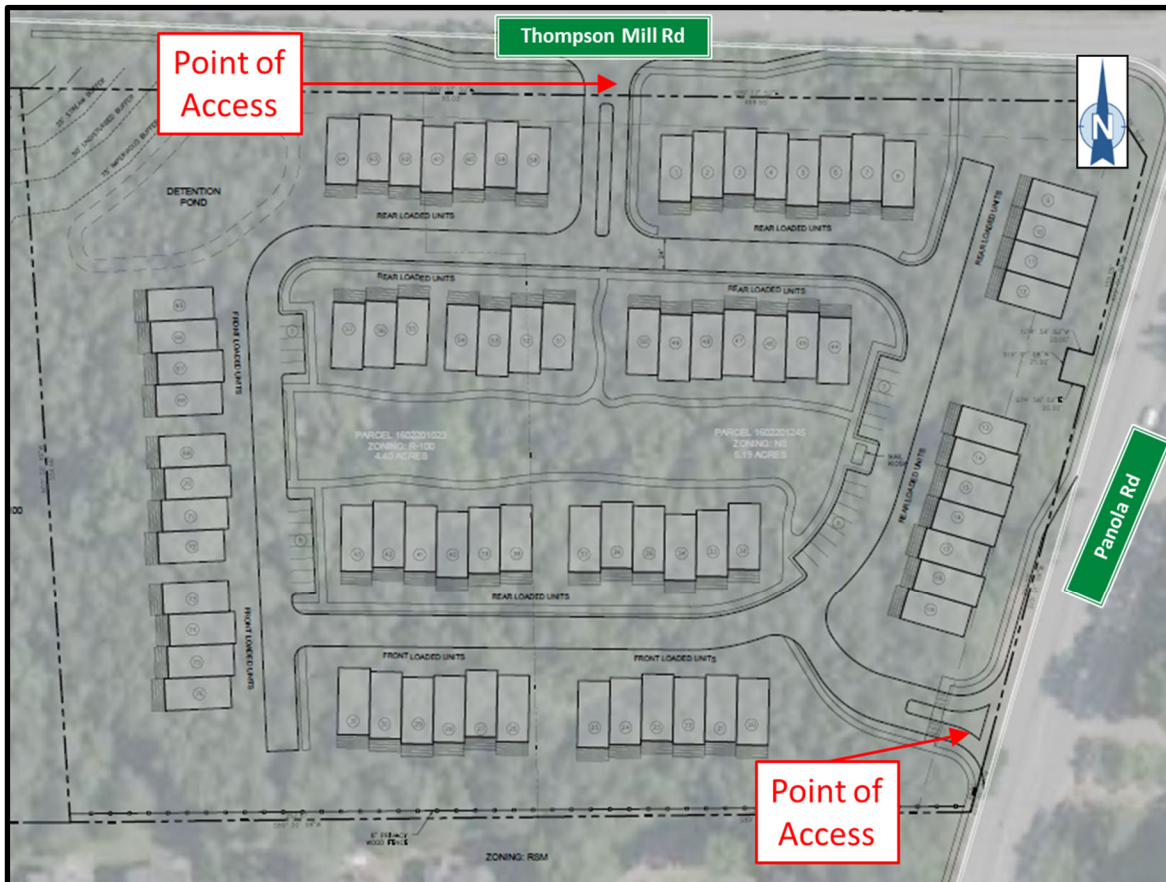
Figure 1: PROPOSED LOCATION



DEVELOPMENT TYPES

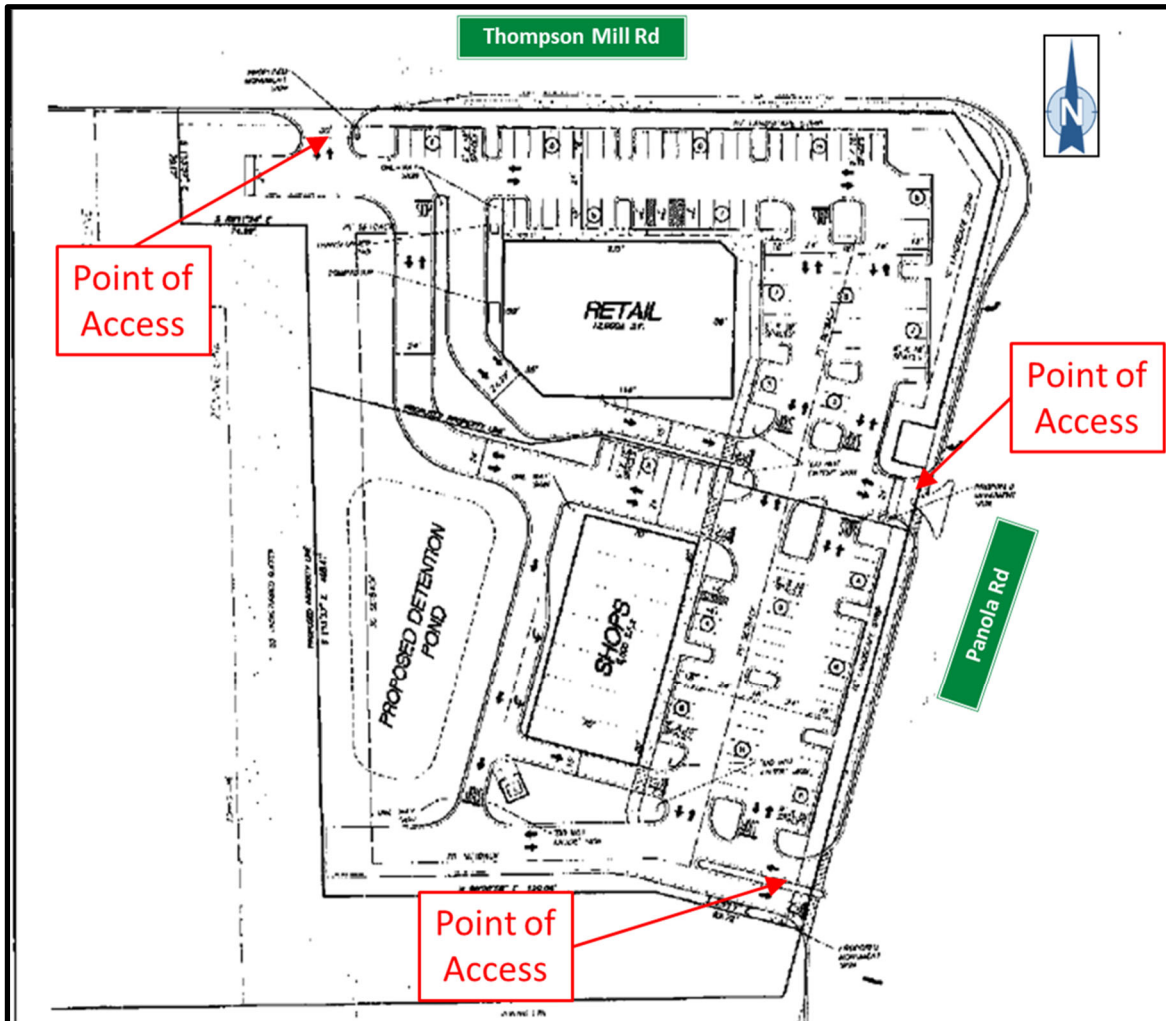
The residential development proposes a total of 76 townhomes. According to the site plan the residential development would have two points of access. The site plan for the residential development is shown below in Figure 2.

Figure 2: RESIDENTIAL PLAN



The retail development proposes two separate buildings with a gross total of 21,800 SF of retail space. According to the site plan the retail development would have three points of access. The site plan for the retail development is shown below in Figure 3.

Figure 3: RETAIL PLAN



PROJECTED CONDITIONS

TRIP GENERATION

The trips generated by the development were estimated using trip generation rates found in ITE’s publication *Trip Generation*, 10th Edition. *TripGen 10* software from Trafficware was used to facilitate the calculation. The trip generation publication contains multiple associated trip rates for the listed land use. The rate that resulted in the larger trip generation was used for this study. The weekday AM and PM Peak Hour trip generation estimates correspond to the peak hour of the adjacent street.

RESIDENTIAL

The trip generation for the residential development can be seen below in Table 1. ITE Code 220 (Multifamily (Low-Rise)) was used for the proposed development, as this code specifically calls out the ‘townhouse’ use. The trip generation data is attached.

Table 1: TRIP GENERATION – RESIDENTIAL

ITE CODE	LAND USE DESCRIPTION	SIZE	DAILY TRIPS	AM PEAK HOUR			PM PEAK HOUR		
				ENTER	EXIT	TOTAL	ENTER	EXIT	TOTAL
220	Townhouses	76 units	556	9	28	37	29	17	46

RETAIL

The trip generation for the retail development can be seen below in Table 2. The ITE Codes used for the retail development were assumed based on the site plan in Figure 3. The trip generation data is attached.

Table 2: TRIP GENERATION – RETAIL

ITE CODE	LAND USE	SIZE	DAILY 2-WAY TRIPS	AM PEAK HOUR			PM PEAK HOUR		
				ENTER	EXIT	TOTAL	ENTER	EXIT	TOTAL
814	Shops	9.8 KSF	622	18	13	31	35	32	67
815	Retail	12 KSF	638	10	4	14	29	29	58
UNADJUSTED VOLUME			1260	28	17	45	64	61	125
PASS-BY TRIPS			-240	0	0	0	-16	-16	-32
ADJUSTED VOLUME (TOTAL NEW TRIPS)			1020	28	17	45	48	45	93

CONCLUSION

Based on the findings of this technical memorandum, the conclusions are as follows:

- A trip generation was completed for a residential development with 76 townhomes:
 - The development is estimated to produce 556 daily trips to the adjacent streets (278 entering, 278 exiting).
 - The AM peak hour produces 37 total trips (9 entering, 28 exiting).
 - The PM peak hour produces 46 total trips (29 entering, 17 exiting).

- A trip generation was completed for a retail development with 21,800 SF of space:
 - The development is estimated to produce 1,260 total daily trips including pass-by trips (630 entering, 630 exiting).
 - The AM peak hour produces 45 total trips (28 entering, 17 exiting).
 - The PM peak hour produces 93 total trips (48 entering, 45 exiting).

- Based on the results of the Trip Generations, it is expected the retail development would generate twice the number of daily trips than the residential development.

Trip Generation Summary

Alternative: Alternative 1

Phase:

Open Date: 6/8/2021

Project: Residential

Analysis Date: 6/8/2021

ITE	Land Use	Weekday Average Daily Trips			Weekday AM Peak Hour of Adjacent Street Traffic			Weekday PM Peak Hour of Adjacent Street Traffic					
		*	Enter	Exit	Total	*	Enter	Exit	Total	*	Enter	Exit	Total
220	LOW-RISE 1 76 Dwelling Units		278	278	556		9	28	37		29	17	46
Unadjusted Volume			278	278	556		9	28	37		29	17	46
Internal Capture Trips			0	0	0		0	0	0		0	0	0
Pass-By Trips			0	0	0		0	0	0		0	0	0
Volume Added to Adjacent Streets			278	278	556		9	28	37		29	17	46

Total Weekday Average Daily Trips Internal Capture = 0 Percent

Total Weekday AM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

Total Weekday PM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

* - Custom rate used for selected time period.

Source: Institute of Transportation Engineers, Trip Generation Manual 10th Edition

TRIP GENERATION 10, TRAFFICWARE, LLC

Trip Generation Summary

Alternative: Alternative 1

Phase:

Open Date: 6/8/2021

Project: Retail

Analysis Date: 6/8/2021

ITE	Land Use	Weekday Average Daily Trips			Weekday AM Peak Hour of Adjacent Street Traffic			Weekday PM Peak Hour of Adjacent Street Traffic					
		*	Enter	Exit	Total	*	Enter	Exit	Total	*	Enter	Exit	Total
814	STOREVARIETY 2 9.8 1000 Sq. Ft. GFA		311	311	622		18	13	31		35	32	67
815	STOREDISC 1 12 1000 Sq. Ft. GFA		319	318	638		10	4	14		29	29	58
Unadjusted Volume			630	630	1260		28	17	45		64	61	125
Internal Capture Trips			0	0	0		0	0	0		0	0	0
Pass-By Trips			120	120	240		0	0	0		16	16	32
Volume Added to Adjacent Streets			510	510	1020		28	17	45		48	45	93

Total Weekday Average Daily Trips Internal Capture = 0 Percent

Total Weekday AM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

Total Weekday PM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

* - Custom rate used for selected time period.

Source: Institute of Transportation Engineers, Trip Generation Manual 10th Edition

TRIP GENERATION 10, TRAFFICWARE, LLC

Ten 10th Street, NW, Suite 1400
Atlanta, Georgia 30309
United States
T +1.404.978.7600
F +1.404.978.7660
www.jacobs.com

Subject	Proposed Townhome Development, Thompson Mill Road at Panola Road	Project Name	Stonecrest, Georgia
Attention	Jim Summerbell, Planning and Zoning Director		
From	Tom Udell, City Engineer		
Date	June 14, 2021		

A townhome development has been proposed at the southwest corner of Thompson Mill Road at Panola Road. The proposal will construct 78 units. This is below the threshold of 190 units to trigger a traffic study. The current zoning is for a commercial development which will produce more traffic than the proposed residential. The city's transportation master plan identifies Thompson Mill Road for widening from 2 to 4 lanes, as well as intersection improvements at Panola Road.

Attachment 4:

RZ-21-003 Public Participation Plan

**PUBLIC PARTICIPATION PLAN
FORM D**

Applicant: Apex Land Company, LLC.

1. The following individuals (property owners within a quarter mile of the property), homeowner’s associations, political jurisdictions, other public agencies, etc., will be notified in accordance with the requirements of Article 28.4.7 of the City of South Fulton Zoning Ordinance:

Everybody living in the following communities: Panola Mills, Glencroft, Havenwood, and Woodgrove communities.

2. The individuals and others listed in 1. above will be notified of the requested rezoning/use permit using the following method(s): (e.g., letters, meeting notices, telephone calls, e-mails, etc.)

Letters and meeting notices to set up meetings that will be held via Zoom

3. Individuals and others listed in 1. above will be allowed to participate in the following manner: (At least one meeting at a convenient time and location is required.)

We will hold Zoom meetings with the community members.

Attach additional sheets as needed.

Havenwood Community Meeting Registration Report

First Name	Last Name	Email	Registration Time	Approval Status	
Donna	Priest-Brown	dpriestbrown@bellsouth.net	2021-06-01 17:55:57	approved	
Tracy	Smith	mmsmuscular@gmail.com	2021-06-01 18:00:56	approved	
Percy	Butler	percydecatour@aol.com	2021-05-31 20:46:48	approved	
Joel	Thibodeaux	jbthibodeaux@gmail.com	2021-06-01 18:05:35	approved	
Cecile	Bryant	cecilebryant1@gmail.com	2021-06-01 18:12:05	approved	
Michele	Battle	battlelawpc@gmail.com	2021-06-01 17:56:54	approved	
LaShawnda	Walker	lashawnda.walker9@gmail.com	2021-06-01 18:10:13	approved	
Sharon	McPherson	sharon_mcperson@yahoo.com	2021-06-01 13:38:23	approved	
Harold	Smith	famu4us@bellsouth.net	2021-05-31 19:09:41	approved	
Gabby Miles		gabbymiles706@gmail.com	2021-06-01 18:10:21	approved	
Diane Robinson		dianemrobinson49@gmail.com	2021-06-01 16:39:52	approved	
Franklin Eaves		franklin2230038@yahoo.com	2021-06-01 18:30:55	approved	
Danielle	Blumenthal	Dlb@battlelawpc.com	2021-06-01 17:57:44	approved	
faye Coffield		faye@fayecoffieldinvestigations.com	2021-06-01 18:15:51	approved	
Sandra	Willis	handsofjazz27@gmail.com	2021-05-31 13:55:23	approved	
Gabby	Miles	edwina328@gmail.com	2021-06-01 17:50:22	approved	
		mlb@battlelawpc.com	2021-06-01 17:56:56	approved	
Erma	Brown	erma324@gmail.com	2021-06-01 18:20:37	approved	
Jazzmin Randall Cobble		jazzmin.cobble@gmail.com	2021-06-01 18:07:34	approved	
Aaron	Rissler	aaronrissler@icloud.com	2021-06-01 18:05:43	approved	
Carl	Manson	crlmanson@aol.com	2021-05-28 16:51:54	approved	
Clara	DeLay	lithonialawyer@gmail.com	2021-06-01 17:54:05	approved	
Doris	Johnson	dorisej@bellsouth.net	2021-05-27 23:56:39	approved	
Bernard	Knight	bknightattorney@att.net	2021-06-01 18:12:54	approved	
T.PG.		togm03@gmail.com	2021-06-01 18:04:45	approved	
Aristo 5		lsharpefranklin@gmail.com	2021-05-27 18:17:06	approved	
Staci Hopkins		shopkins1975@gmail.com	2021-06-01 17:54:47	approved	
Joysjazz		1joysjazz@gmail.com	2021-05-30 13:09:25	approved	
Pat		pwil789@comcast.net	2021-06-01 05:41:09	approved	
Stacey	Thibodeaux	staceythibodeaux@gmail.com	2021-06-01 18:01:11	approved	

Glencroft Community Meeting Registration Report

First Name	Last Name	Email	Registration Time	Approval Status	
Wanda	McKenzie	DMack71@yahoo.com	2021-05-26 18:31:36	approved	
Tracy	Smith	mamuscular@gmail.com	2021-06-01 19:13:34	approved	
Patsi Turner		turnerg1@comcast.net	2021-06-01 18:49:49	approved	
Pat Coffee		coffee48@bellsouth.net	2021-06-01 18:52:30	approved	
Jazzmin Randall Cobble		jazzmin.cobble@gmail.com	2021-06-01 18:06:46	approved	
Michele	Battle	battlelawpc@gmail.com	2021-06-01 19:09:21	approved	
Valorie		valoriemccoy@outlook.com	2021-05-31 22:20:19	approved	
Diane Robinson		dianemrobinson49@gmail.com	2021-06-01 19:15:30	approved	
Aaron	Rissler	aaronrissler@icloud.com	2021-06-01 18:05:09	approved	
		mlb@battlelawpc.com	2021-06-01 19:09:25	approved	

Woodgrove Community Meeting Registration Report

First Name	Last Name	Email	Registration Time	Approval Status	
Donna	Priest-Brown	dpriestbrown@bellsouth.net	2021-06-03 18:00:20	approved	
Kathy		bollikat@yahoo.com	2021-06-03 18:09:47	approved	
Lois Hyde		loiswhyde01@gmail.com	2021-06-03 18:05:03	approved	
Samuel Long		lonsam0324@gmail.com	2021-06-02 15:18:24	approved	
Michele	Battle	battlelawpc@gmail.com	2021-06-03 18:01:06	approved	
LaShawnda	Walker	lashawnda.walker9@gmail.com	2021-06-02 18:12:39	approved	
Mickey		starbord2562@gmail.com	2021-06-03 18:12:48	approved	
Sharunda	Buchanan	sdb4@cdc.gov	2021-05-28 10:38:09	approved	
Jean	Brooks-Eberhardt	jbjean7@gmail.com	2021-06-01 19:44:56	approved	
Danielle	Blumenthal	Dlb@battlelawpc.com	2021-06-03 17:55:14	approved	
Alisa	Clark	alisaclark@glorypcs.com	2021-05-28 09:02:45	approved	
Luther	Tookes	luthertookes@bellsouth.net	2021-06-03 13:43:38	approved	
		mlb@battlelawpc.com	2021-06-03 18:01:08	approved	
Barbara Senior		seniorbarbara133@gmail.com	2021-06-03 18:23:25	approved	
Galaxy S20+ 5G		robert3476@aol.com	2021-05-26 20:14:46	approved	
Nijel	Bordenave	nbordenave@yahoo.com	2021-06-03 18:13:53	approved	
A Jackson		Arquidalebutler@yahoo.com	2021-05-29 07:39:30	approved	
Jazzmin Randall Cobble		jazzmin.cobble@gmail.com	2021-06-01 18:05:12	approved	
alecia washington		cityofhopeoutreach@yahoo.com	2021-06-03 16:35:03	approved	
R Rasberry		rlrasberry@bellsouth.net	2021-06-03 18:25:43	approved	
Shanta Morris		smorris411@outlook.com	2021-06-03 18:38:24	approved	
Aaron	Rissler	aaronrissler@icloud.com	2021-06-01 14:30:30	approved	
Christine	Character	faithprinting123@gmail.com	2021-06-02 00:20:09	approved	
joyce		ja5233@yahoo.com	2021-06-03 18:07:53	approved	
Carl	Manson	crlmanson@aol.com	2021-06-03 18:20:36	approved	

May 20, 2021

RE: A Proposed Rezoning and Comprehensive Land Use Change for 3177 Panola Rd and 5207 Thompson Mill Rd.

Dear Property Owner:

We would like to invite you to join our Zoom Video Meeting on **Tuesday, June 3, 2021**, from 6:00 pm to 7:00pm to discuss a proposed rezoning and land use amendment for the properties located at 3177 Panola Rd. and 5207 Thompson Mill Rd. My client, Apex Land Company, is seeking to develop a townhome project on the property.

Below are the meeting instructions. There are multiple ways for you to join the meeting, including via your computer, tablet, or cell phone, with or without video. If you are unable to make it, but would like to learn more, please contact our office at (404) 601-7616 ext. 7 or email us at jtm@battlelawpc.com and we will send you a summary of the meeting.

You are invited to a Zoom meeting.

When: June 3, 2021 06:00 PM Eastern Time (US and Canada)

Register in advance for this meeting:

<https://otago.zoom.us/join>

Meeting ID: 864 8203 1456

Passcode: 853279

After registering, you will receive a confirmation email containing information about joining the meeting.

Please contact our offices if you have any questions regarding the meeting.

Sincerely,

Michèle L. Battle

Michèle L. Battle



Zoom Step by Step Instructions

Go to <https://otago.zoom.us/join> and Enter the Meeting ID that you have been provided with in the appropriate field and click “Join” (the meeting ID will be a 9 digit or 10 digit number)

If joining from a mobile Device

If you are joining from a mobile device (Android smartphone/tablet, Apple iPhone/iPad) then it will simply prompt you to download the Zoom Cloud Meeting app from the App/Play Store.

If joining from a computer

When entering a Zoom meeting for the first time from a computer you may need to download a small application file. This process is easy to complete on all commonly used browsers. Google Chrome should automatically download the file.

Just before Entering the meeting you will be prompted to enter a display name. This name is simply to identify you in the meeting.

Join Audio via Computer

You will then be prompted how you wish to join your audio. If you wish to join audio via the telephone, follow the instructions further down, otherwise simply select Join Computer by Audio.

Join Audio via Telephone

Dial in using (646) 558-8656, after entering the Meeting ID, you will be prompted to enter your Participant ID/Password. Simply enter this number followed by # and the video audio will then be synchronized.

Raising Your Hand

As the non-speaker if you wish to ask a question or make a point during the meeting it’s good protocol to use the “Raise Hand” facility.

If the tool bar is not showing at the bottom of the Zoom window, place your cursor over the Zoom window so it appears and select the “Participants” icon.

A window listing other participants will appear, there is also a “Raise Hand” icon, click the icon to make it known to the Host that you would like to raise your hand.

If you wish to lower your hand, click the “Lower Hand” icon that will have replaced the “Raise Hand” icon.

Leave Meeting

To leave a meeting from Zoom on your desktop, select “End Meeting” then “Leave Meeting.”

Attachment 5, RZ-21-005:

Zoning Agreement between Panola Mills HOA and the property owners of subject property, which includes the conditions of zoning placed on the property by DeKalb County in 2008 (Z-08-15000)



Filed and Recorded:
4/16/2009 4:16:41 PM
Linda Carter
Clerk of Superior Court
DeKalb County, Georgia

Space Above Reserved for Recording Data

After Recording, return to:
Michèle L. Battle
Smith, Gambrell & Russell, LLP
Promenade II, Suite 3100
1230 Peachtree St., N.E.
Atlanta, GA 30309

Cross Reference to Owner Deed:
Deed Book: 5492
Page: 684

ZONING AGREEMENT

This Zoning Agreement (the "Agreement") is entered into this ___ day of February, 2009, by and between PANOLA MILLS HOMEOWNERS ASSOCIATION, INC., a Georgia nonprofit corporation (the "Association") and M.S. Zakaria, Trustee for M.S. Zakaria M.D., P.C., Employers Profit Sharing Trust; Mohammad Al-Mulki, Trustee for Rania Al-Mulki; Mohammad Al-Mulki, Trustee for Izat Al-Mulki; Mohammad Al-Mulki, Trustee for Dania Al-Mulki and Amin Haffar, (collectively "Owner")

As of the date of execution of this Agreement, the parties listed as the "Owner" have fee simple title to the Zoning Tract and the Residential Tract. This Agreement is made in contemplation of the sale of the Zoning Tract to Cornerstone Development Partners, LLC or another development company, with the Owner retaining the Residential Tract

WITNESSETH

If the rezoning of the Zoning Tract is approved by the DeKalb County Board of Commissioners, the Association agrees that the Owner will be bound by the following:

WHEREAS, Owner owns approximately 5.190 acres of land (the "Zoning Tract") lying and being in Land Lots 22 and 43 of the 16th District of DeKalb County, Georgia as more particularly described in Exhibit "A" attached hereto labeled Tract 2 and by this reference incorporated herein; and

WHEREAS, Owner owns approximately 4.39 acres of land (the "Residential Tract") lying and being in Land Lot 22 of the 16th District of DeKalb County, Georgia as more particularly described in Exhibit "B" attached hereto labeled Tract 1 and by this reference incorporated herein; and

LIT:1057150.4

WHEREAS, Owner filed with the DeKalb County Planning Department (the "Planning Department") Rezoning Application No. Z-08-15000 (the "Rezoning Application") to rezone the Zoning Tract from R-100 to NS; and

WHEREAS, Owner and the Association desire to enter into this Agreement governing the development of both the Zoning Tract and the Residential Tract (the "Subject Properties").

NOW, THEREFORE, for and in consideration of the agreement of Owner to amend its Rezoning Application (and future applications) as hereinafter provided to incorporate certain conditions and in consideration of the mutual benefits flowing between the parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of said parties, Owner hereby agrees as follows:

1. Use of Zoning Tract. The approval of the Rezoning Application by the DeKalb County Board of Commissioners shall be subject to certain conditions of zoning, which are contained in Exhibit "D" attached hereto and by this reference incorporated herein (the "Zoning Conditions"). In addition, the parties have agreed that when the Zoning Tract is developed and the sidewalks along Panola Rd are installed, the owner of record at the time that the Zoning Tract is developed will, at its cost, extend the sidewalks along Panola Road to the entrance of the Association's subdivision. Further, when the Zoning Tract is developed, as part of the landscaping design for its frontage, the owner of record at the time that the Zoning Tract is developed agrees to spend up to \$5000.00 to assist the Association in improving the landscape design at the entrance to their subdivision as shown on Exhibit "C" attached hereto and by this reference incorporated herein (the "Panola Mills Entrance Landscape Plan"). Notwithstanding anything herein to the contrary, the terms and conditions set forth in this paragraph 1 regarding the use of the Zoning Tract, shall terminate automatically and become immediately null and void and of no force and effect if subsequent to the approval of the Rezoning Application the Zoning Tract is rezoned to any residential zoning district under the DeKalb County Zoning Ordinance, or under the zoning ordinance of the then applicable governing authority.
2. Use of Residential Tract. Owner has agreed and hereby does agree that the use of the Residential Tract shall be limited to residential dwellings and neither Owner nor any developer of the Residential Tract shall seek to rezone the Residential Tract to any non-residential zoning classification. The foregoing use restriction does not exclude the use of the Residential Tract for non-residential uses permitted in residential dwellings by Special Land Use Permit, Special Exception or otherwise, under the residential zoning district then applicable to the Residential Tract.
3. Covenant Running with the Land. The parties have agreed that the uses of the Subject Properties are central to the entry of this Agreement by the Association. Upon execution of this Agreement and approval of the Rezoning Application, subject to the Zoning Conditions and any other additional conditions approved by the DeKalb County Board of Commissioners, Owner shall record this Agreement as a covenant on its title to the Subject

Properties. This Agreement shall be recorded so as to run with and bind the Subject Properties and any successors, successors-in-title, legal representatives and assigns of Owner and shall run to the benefit of and be enforceable by the Association. This Agreement is deemed a covenant and shall extend for twenty (20) years, and shall renew itself automatically every twenty (20) years, unless within sixty (60) days prior to the expiration of such twenty (20) year term, the Association elects to terminate this Agreement by recording in the DeKalb County, Georgia real property records written notice of the Association's election to terminate the Agreement. Notwithstanding anything herein to the contrary, this entire Agreement shall terminate automatically and become immediately null and void and of no force and effect upon: (i) the denial of the Rezoning Application by the DeKalb County Board of Commissioners, (ii) the voluntary dissolution of the Association, or (iii) twenty-four (24) months after the date that the Association is administratively dissolved by the Georgia Secretary of State's Office.

4. Breach. If Owner breaches any of the terms or conditions set forth herein, the Association shall have the right to give Owner written notice of such breach, simultaneously with filing a complaint with the DeKalb County Code Enforcement Department. If Owner fails to cure such breach within thirty (30) days after receipt of such notice, then the Association shall have the right to: (i) enforce the covenants and agreements hereunder by injunction, specific performance or other appropriate proceedings in law or in equity in the Superior Court of DeKalb County, Georgia, or through mediation, to which Owner hereby consents.
5. Notices. (a) All notices shall be in writing and shall be deemed to have been properly given (i) when delivered in person, or (ii) one (1) business day, after deposit with Federal Express, Express Mail, or other overnight delivery service for next day delivery, addressed to the appropriate party at the address set forth below:

Contact info for Owner at the time of this Agreements Execution

M.S Zakeria, M.D,
1590 Bethsaida Rd
Riverdale Ga. 30296

Mohammad Al-Mulki, M.D
830 Heards Ferry Rd
Atlanta, Ga. 30328-4726

With a Copy

to: Any Owner of Record at time of Notice if different from above

With a Copy
to:

Cornerstone Development Partners
Mark Renier
3625 Cumberland Boulevard
Suite 540
Atlanta, GA 30339

With a copy
to:

Michèle L. Battle, Esq.
Land Use Group
Smith, Gambrell & Russell, LLP
1230 Peachtree St., N.E.
Promenade II, Suite 3100
Atlanta, GA 30309

Association: Jackie Johnson
5002 Panola Mill Drive
Lithonia, GA 30038

Rejection or other refusal by the addressee to accept, or the inability of the courier service to deliver because of a change of address of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address to which notices to it shall be sent by giving to the other party at least ten (10) days prior notice of the change of address.

(b) In an effort to keep the line of communication open between the Zoning Tract owner, the Association and the surrounding communities, Owner shall notify the Association in writing (the "Change of Developer Notice") of any conveyance of all or any portion of the Zoning Tract to a successor owner and/or developer of the improvements to be developed on the Zoning Tract. The Change of Developer Notice shall include contact information for the new owner/developer, including, name of the new owner or developer, address, telephone number, fax number and e-mail address and the name of the primary contact person for such owner or developer.

6. MISCELLANEOUS.

- a. This Agreement shall be binding on the successors, successors-in-title, legal representatives and assigns of Owner. Time is of the essence. This Agreement shall survive the sale of all or a portion of the Subject Properties.
- b. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts together shall constitute one and the same instrument.

- c. No representations that are not contained herein shall be binding upon the parties. Each signatory hereto is authorized to execute this Agreement.
- d. The introductory paragraphs to this Agreement are incorporated herein by this reference.
- e. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and shall be controlled in all respects by the laws of the State of Georgia. Notwithstanding anything herein, no modification of this Agreement, shall have any force or effect except where agreed in writing, signed by all parties hereto.
- f. Should any part of this Agreement be declared invalid or void by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion or portions hereof, and such remaining portion or portions shall be deemed to be in full force and effect.
- g. The preambles of this Agreement are incorporated into this Agreement and made a part hereof as if fully restated herein in their entirety. A waiver by any of the parties hereto of any breach hereof shall not operate nor be construed as a waiver of any subsequent breach by any party.
- h. As it is the intent of the parties hereto that this Agreement be enforceable, the parties hereto do hereby waive, surrender and forego any defense which might prevent the enforcement of this Agreement as a covenant, including, but not limited to the following: any defense regarding any lack of privity, any issue of standing, or consideration. The parties further acknowledge the ability, if necessary, to enforce this Agreement as a covenant through privity of conscience.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

OWNER:

Signed, sealed and delivered in the presence of:

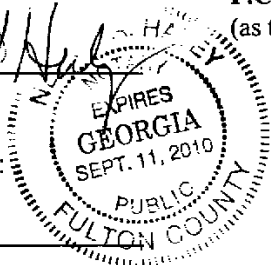
Karen B. Peritt
Witness

M.S. Zakaria

M.S. Zakaria, Trustee for M.S. Zakaria M.D., P.C., Employers Profit Sharing Trust
(as to an undivided 50% interest)

Nedon A. Haley
Notary Public

My Commission Expires:



[Notary Seal]

Signed, sealed and delivered in the presence of:

Karen B. Peritt
Witness

Mohammad Al-Mulki Trustee

Mohammad Al-Mulki, Trustee for Rania Al-Mulki
(as to an undivided 21% interest)

Nedon A. Haley
Notary Public

Mohammad Al-Mulki, Trustee

Mohammad Al-Mulki, Trustee for Izat Al-Mulki (as to an undivided 12% interest)

My Commission Expires:

Nedon A. Haley
[Notary Seal]

Mohammad Al-Mulki Trustee

Mohammad Al-Mulki, Trustee for Dania Al-Mulki (as to an undivided 12% interest)

Signed, sealed and delivered in the presence of:

Karen B. Peritt
Witness

Mohammad Al-Mulki, POA

Amin Haffar, Individually
(as to an undivided 5% interest)

Nedon A. Haley
Notary Public

My Commission Expires:

[Notary Seal]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

ASSOCIATION:

Signed, sealed and delivered in the presence of:

PANOLA MILLS HOMEOWNERS ASSOCIATION, INC., a Georgia nonprofit corporation

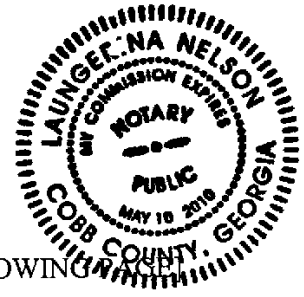
Britter
Witness

By: Jackie Johnson
Jackie Johnson, Its President

Laungerine Nelson
Notary Public

My Commission Expires: May 10 2010

[Notary Seal]



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

EXHIBIT "A"
Legal Description

Zoning Tract

All that tract or parcel of land lying and being in Land Lots 22 and 43, 16th District of Dekalb County, Georgia, and being more particularly described as follows:

Beginning at a right of way monument found at the northwest end of the mitered intersection of the south right of way of Thompson Mill Road (80 foot right of way) and the northwest right of way of Panola Road (variable right of way);
thence along said mitered right of way intersection South 32 degrees 35 minutes 30 seconds East, a distance of 49.14 feet to a right of way monument;
thence along the northwest right of way of Panola Road South 15 degrees 01 minutes 08 seconds West, a distance of 155.05 feet to a point;
thence continuing along said right of way North 74 degrees 58 minutes 52 seconds West, a distance of 20.00 feet to a point;
thence continuing along said right of way South 15 degrees 01 minutes 08 seconds West, a distance of 25.00 feet to a right of way monument;
thence continuing along said right of way South 74 degrees 58 minutes 52 seconds East, a distance of 20.00 feet to a point;
thence continuing along said right of way South 15 degrees 01 minutes 08 seconds West, a distance of 290.09 feet to a point;
thence continuing along said right of way South 15 degrees 01 minutes 08 seconds West, a distance of 41.56 feet to a point;
thence leaving said right of way South 89 degrees 20 minutes 58 seconds West, a distance of 326.41 feet to a point;
thence North 01 degrees 15 minutes 57 seconds West, a distance of 424.66 feet to a point;
thence North 89 degrees 11 minutes 24 seconds West, a distance of 74.99 feet to a point;
thence North 01 degrees 15 minutes 57 seconds West, a distance of 120.10 feet to a point on the south right of way of Thompson Mill Road;
thence along said right of way South 89 degrees 17 minutes 52 seconds East, a distance of 50.03 feet to a point;
thence continuing along said right of way South 89 degrees 17 minutes 52 seconds East, a distance of 469.55 feet to a right of way monument;
said point being the POINT OF BEGINNING.
Said tract or parcel containing 226,065 square feet or 5.190 acres.

EXHIBIT "B"**Legal Description****Residential Tract**

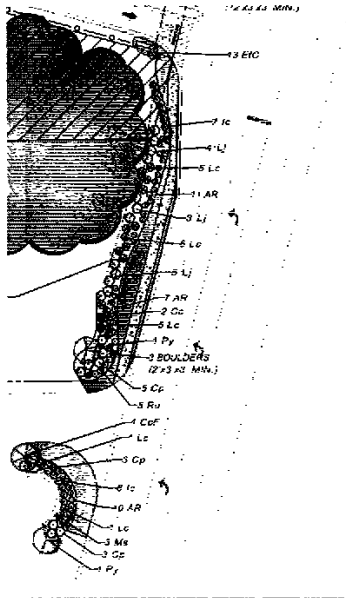
All that tract or parcel of land lying and being in Land Lots 22, 16th District of Dekalb County, Georgia, and being more particularly described as follows:

Commencing at a right of way monument found at the northwest end of the mitered intersection of the south right of way of Thompson Mill Road (80 foot right of way) and the northwest right of way of Panola Road (variable right of way);
thence along the south right of way of Thompson Mill Road North 89 degrees 17 minutes 52 seconds West, a distance of 469.55 feet to a point;
thence continuing along said right of way North 89 degrees 17 minutes 52 seconds West, a distance of 50.03 feet to a point;
said point being the POINT OF BEGINNING;
thence leaving said right of way South 01 degrees 15 minutes 57 seconds East, a distance of 120.10 feet to a point;
thence South 89 degrees 11 minutes 24 seconds East, a distance of 74.99 feet to a point;
thence South 01 degrees 15 minutes 57 seconds East, a distance of 424.66 feet to a point;
thence South 89 degrees 20 minutes 58 seconds West, a distance of 352.87 feet to a 3/8" rebar;
thence North 03 degrees 50 minutes 35 seconds West, a distance of 554.66 feet to a 1/2" crimped top pipe on the south right of way of Thompson Mill Road;
thence along said right of way South 89 degrees 17 minutes 52 seconds East, a distance of 303.03 feet to a point;
said point being the POINT OF BEGINNING.

Said tract or parcel containing 191,634 square feet or 4.40 acres and being more particularly shown on a Zoning Plat for Cornerstone Development Partners, LLC by Armstrong Land Surveying, Inc. dated July 2, 2008, last revised September 19, 2008, and being the portion of Tract 2 outside of the limits of rezoning.

EXHIBIT "C"

"Panola Mills Entrance Landscape Plan"



PLANT LIST

KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	MATURE HT
TREES						
Cd	12	<i>Carya carolinensis</i> 'Forest Pansy'	FOREST PANSY REDBUD	3" CAL.	REFER TO PLAN	20-30'
Py	7	<i>Prunus Y yedoensis</i>	YOSHINO CHERRY	3" CAL.	REFER TO PLAN	20-30'
Ge	8	<i>Quercus shumardii</i>	SHUMARD OAK	3" CAL.	REFER TO PLAN	40-60'
Op	10	<i>Ulmus parvifolia</i>	LACEBARK ELM	3" CAL.	REFER TO PLAN	40-60'
SHRUBS						
AR	89	<i>Abelia chinensis</i> 'Rose Creek'	ROSE CREEK ABELIA	3 GAL.	3'-0" O.C.	
Gc	5	<i>Chamaecyparis obtusa</i> 'Gracile'	GLENDEN HINOKI	6-8" HT.	REFER TO PLAN	
Op	17	<i>Chamaecyparis pisifera</i> 'Nana Mops'	GOLDEN MOP CYPRESS	3 GAL.	5'-0" O.C.	
Lc	104	<i>Ilex cornuta</i> 'Catesae'	CARISSA HOLLY	18-24" HT.	3'-6" O.C.	
LO	11	<i>Lagerströmia 'GAMMAD II'</i>	RASPBERRY DAZZLE CREPE MYRTLE	2-3" HT.	4'-0" O.C.	
Lj	12	<i>Ligustrum japonicum</i> 'Recurvifolium'	RECURVE LEAF LIGUSTRUM	3-4" HT.	6'-0" O.C.	
Lc	88	<i>Loropetalum chinensis</i> var. 'rubrum Ruby'	RUBY LOROPETALUM	2-3" HT.	4'-0" O.C.	
Ms	28	<i>Miscanthus sinensis</i> 'Gracilimus'	MAIDEN GRASS	3 GAL.	5'-0" O.C.	
NG	25	<i>Nandina domestica</i> 'Gulf Stream'	GULF STREAM NANDINA	18-24" HT.	3'-0" O.C.	
Rj	64	<i>Rhododaphne umbellata</i> 'Georgia Farris'	GEORGIA 'PETITE INDIAN' HAWTHORN	12-18" HT.	3'-0" O.C.	
GROUNDCOVER						
EC	59	<i>Eucnymus fortunei</i> var. <i>coloratus</i>	WINTERCREEPER EUCNYMUS	1 GAL.	2'-0" O.C.	
ANNUALS						

EXHIBIT "D"

Conditions of Zoning

(Z-08-15000)

Dated 12/04/08

Special Conditions. As of the date of execution of this Agreement, the parties listed as the "Owner" have fee simple title to the Zoning Tract and the Residential Tract. This Agreement is made in contemplation of the sale of the Zoning Tract to Cornerstone Development Partners, LLC ("Purchaser") with the Owner retaining the Residential Tract.

Notwithstanding anything herein to the contrary, the party nominally listed as "Owner" shall have absolutely no obligations under paragraph 1 of this Agreement and any notice affecting the Residential Tract shall be sent to M. S. Zakaria, M.D., 1590 Bethsaida Road, Riverdale, GA 30296.

A NH 1939135 v1
2908346-000001 2/4/2009

ZONING CONDITIONS (Z-08-15000)
Dated 12/04/08

1. The Subject Property shall be developed as a retail or office or restaurant center substantially similar to the concept plan dated July 7, 2007, subject to modifications and eliminations approved by the DeKalb County Planning Department, and prepared by LAI Engineering, Job No.: 8193PROJ (the "Site Plan"), a copy of which was submitted to the DeKalb County Planning and Development Department on December 4, 2008 and is attached hereto as Exhibit "A" and by this reference incorporated herein. The development on the Subject Property shall be limited to buildings with a total square footage not to exceed 25,000 sq. ft.

2. While the landowner has pursued the much lighter zoning designation of NS (Neighborhood Shopping) instead of the more intense C1 designation, the landowner has agreed to further restrict the NS allowable uses. All of the following uses A-G are allowed under the NS designation. However, the landowner has agreed that any of the uses below that have a strike through will be prohibited uses. All other uses A – G below without a strike through will be the allowable uses.
 - a. ~~Animal hospital, veterinary clinic, pet supply store, and animal grooming shop;~~
 - b. Art Gallery and art supply store;
 - d. ~~Child day care center;~~
 - e. Office uses as follows:
 - (1) Accounting office;
 - (2) Engineering and architectural office;
 - (3) Financial services office;
 - (4) Insurance office;
 - (5) Legal office;
 - (6) Medical office;
 - (7) Real estate office;
 - f. ~~Recreational facilities where such activities are wholly enclosed within a building;~~
 - g. Restaurants, but not including drive-through restaurants; **The Subject Property will not lease space to a "restaurant" tenant that in Owners's reasonable judgment is inconsistent with restaurants typically found in first class shopping centers. For example, no pizza take out only, Chinese take out only, or Mexican take out only restaurants will be permitted. Furthermore, those allowable restaurants tenants will occupy no less than 1,000 square feet and such restaurants whose primary use is for the sale of lunch and dinner food items will be permitted so long as its take out sales do not exceed 50% of its total sales.**

Furthermore, if there are any freestanding restaurants located within Subject Property, they will occupy no less than 3,500 SF and will have no less than 50 seats.
 - h. ~~Place of worship~~

LIT1057245.2

- i. Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:
- (1) Apparel and accessory store; with the exception that Jean Stores or athletic apparel/shoe stores will be prohibited
 - (2) Book, greeting card and stationary store;
 - (3) Camera and photographic supply store;
 - (4) ~~Convenience store;~~
 - (5) Florist;
 - (6) Food stores, including bakeries
 - (7) Gift novelty and souvenir stores, excluding any dollar store (i.e., Dollar General, Family Dollar, Dollar Tree, 99 Cent Stores or other similar store);
 - (8) ~~Hardware store;~~
 - (9) Hobby, toy and game store; with the exception that electronic video game stores will be prohibited
 - (10) ~~Jewelry store;~~
 - (11) Music and musical equipment store;
 - (12) ~~News dealers and newsstand;~~
 - (13) Office supplies and equipment store
 - (14) Pharmacy, including convenience items;
 - (15) Quick copy printing store;
 - (16)
 - (17) Sporting goods and bicycle sale;
 - (18) ~~Variety store;~~
 - (19) ~~Video tape sales and rental store;~~
- f. Services, personal, as follows:
- (1) ~~Barbershop, beauty shop, and similar personal service establishments;~~
 - (2) ~~Coin-operated laundry and dry cleaning store;~~
 - (3) ~~Laundry and dry cleaning establishment and pickup station;~~
 - (4) ~~Personal care home, congregate;~~
 - (5) ~~Personal care home, family;~~
 - (6) ~~Personal care home, group;~~
 - (7) ~~Personal care home, registered;~~
 - (8) Day spas offering personal services such as massages and skin treatments, as well as other personal care services which may include hair and nail care.
 - (9) Photographic studios.
- g. Services, repair, as follows:
- (1) ~~Jewelry repair store;~~
 - (2) ~~Shoe repair store.~~

3. Accessory uses and structures allowed on the Subject Property shall consist of all accessory uses and structures allowed within the NS Zoning District as enumerated in DeKalb County Zoning Code Sec. 27-559.
4. In order to be clear about other uses **not permitted** in NS and thus this property, the following uses shall also be strictly prohibited on the Subject Property;

- a. Electronic game playing centers.
 - b. Adult entertainment centers.
 - c. Adult novelty stores.
 - d. Pawn shops.
 - e. Pool halls.
 - f. Tattoo parlors.
 - g. Individual barbershops and beauty salons, but not businesses operating as a day spa offering two (2) or more of the individually prohibited service establishments, along with massages, skin treatments, etc.
 - h. Liquor store, spirits wholesale or retail, and wine shops. Notwithstanding the foregoing, this condition shall not prevent liquor, wine, beer or other spirits from being sold in restaurant(s) on the Subject Property.
 - i. Rental stores leasing furniture, trucks, tools and/or equipment (excluding stores lasing items used for the improvement of physical fitness and health).
 - j. Automobile, boat, and trailer sales and service (excluding sale or leasing of self propelled water craft, like canoes).
 - k. Car title offices.
 - l. Farmers' or flea markets, defined as an occasional or periodic market held in an open area or structure where individual non-tenant sellers offer goods to the public.
5. No outdoor storage of merchandise will be permitted within the development, and no outdoor vending machines or supplies will be permitted within the development.
6. There shall be designated bicycle parking.
7. No exposed neon or box signs shall be permitted on the exterior of the buildings.
8. All four sides of buildings on the Subject Property shall consist of brick, stone, stucco or glass (including metal and glass store fronts and/or curtain wall systems). E.I.F.S., painted dimensioned wood, cement material (such as hardieplank), metal panels, colored precast concrete, cast stone, architectural blocks and/or cedar shake may be used as an accent material only, not to exceed 20% of the surface area. The building façade plans to be substantially similar to the elevations attached hereto as Exhibit "B" subject to modifications as some national restaurants and other retailers may require.
9. The common areas within the development shall be kept and maintained in first class order and repair as compared to any other first class mixed use development similar to the caliber, type and character of the development on the Subject Property and located in the general area. A Property

Owners Association ("POA") shall be created and shall assume maintenance responsibilities for the Subject Property's common area once the development is completed.

10. As shown on the Landscape Plan dated July 7, 2008 prepared by LAI, Engineering Job NO.: 8193PROJ attached hereto as Exhibit "C", the Panola Rd and Thompson Mill Rd frontages shall be heavily landscaped with flowering trees, shrubs, and perennials. Developer will also agree to an improved landscape strip in the right of way outside the north and east property lines to the curb line of Panola Rd and Thompson Mill Rd and in order to soften the view of the parking fields, developer will create a landscaped berm along Panola Rd and Thompson Mill Road frontages as topography allows. Once planted, developer shall be responsible for the maintenance of planted materials within the limits of its property for a period of 24 months from the date a Land Disturbance Permit is issued for development of the project, and shall replace any diseased or dead landscape material as needed. After this 24 month period, the obligation and financial responsibility to maintain landscaping shall be imposed upon the mandatory POA established to maintain all common areas of the Subject Property.
11. Free standing signage along the road frontage shall be monument style with sign bases constructed of brick, stone or stucco finishes/veneers in compliance with all other standards of Chapter 21, Sign Regulations.
12. Any exterior lights, including building lights, walkway lighting, safety/security lights and parking lot lights will be screened, shielded, and/or shaded so as to minimize glare and the casting of light outside the new development. No lighting will bleed or shine onto neighboring properties. The west and south lighting of the building will be implemented with wall pack fixtures. Front lighting will be implemented with shoebox or decorative type fixtures with low (e.g. 20 foot) lighting standards. Gooseneck and "Historical period" lighting fixtures will be incorporated in building and parking lot design.
13. Outdoor seating shall be allowed in the front or side of restaurant uses..
14. Detention structures on the Subject Property shall conform to all DeKalb County Code requirements and shall reduce the current run-off rate by 10%. Further, draining improvements shall be subject to approval of the Development Division of the Planning and Development Department, and the Drainage Division of the Public Works Department. Class 3 concrete piping will run from detention facility and flow to allowable culvert on Thompson Mill Rd.
15. No construction shall take place Monday through Thursday, 7:00 p.m. – 7:00 a.m., Friday, 7:00 p.m. – Saturday, 9:00 a.m., and Saturday, 4:00 p.m. – 12:00 a.m. No construction will be allowed on Sunday. Inaudible interior construction will be allowed Monday through Thursday, 7:00 p.m. – 8:00 p.m. General construction activities shall be limited to Monday through Friday between the hours of 7:00 a.m. and 7:00 p.m. and Saturday between the hours of 9:00 a.m. and 4:00 p.m.
16. All utilities are to be underground.
17. Transportation and access improvements shall be subject to approval by the Development Division of the Planning and Development Department, and the Transportation Division of the Public Works Department.
18. Garbage dumpsters shall have sound-deadening gaskets and shall be located within a gated, masonry enclosure. Excluding special circumstances, Garbage dumpster pickup shall be between 6:30 a.m. and 8:00 p.m., Monday through Saturday.

19. The Site Plan may include portions of the Subject Property that will be subdivided in the future. Parts of the Subject Property may be conveyed as separate tracts and to separate owners with different ownership structures under the zoning plan. Should there be a conveyance of part of the Subject Property to different owners, all zoning conditions (and variances, if any) shall remain applicable to any portion of the conveyed property, regardless of what future person or entity owns the subdivided portion of the Subject Property. Conveyance of part of the Subject Property to different owners shall not require any changes to the zoning plan for the development (nor variances, if any). The newly-created property lines which arise from these conveyances are not required to observe setback, buffer or other requirements provided the building layout for the project as a whole continues to comply substantially with the Site Plan. The development at issue is a master planned development and shall be developed as such.
20. HVAC Root Top units will be screened from view and not visible from the ground or neighboring properties.
21. The owner of the Subject Property agrees to enter into a binding agreement with Panola Mills Subdivision and DeKalb County and a deed restriction will be placed on the balance of this 9.5 acre tract prohibiting any future retail/shopping center zoning.

EXHIBIT "A" to ZONING CONDITIONS

SITE PLAN

EXHIBIT "B" to ZONING CONDITIONS

Elevation

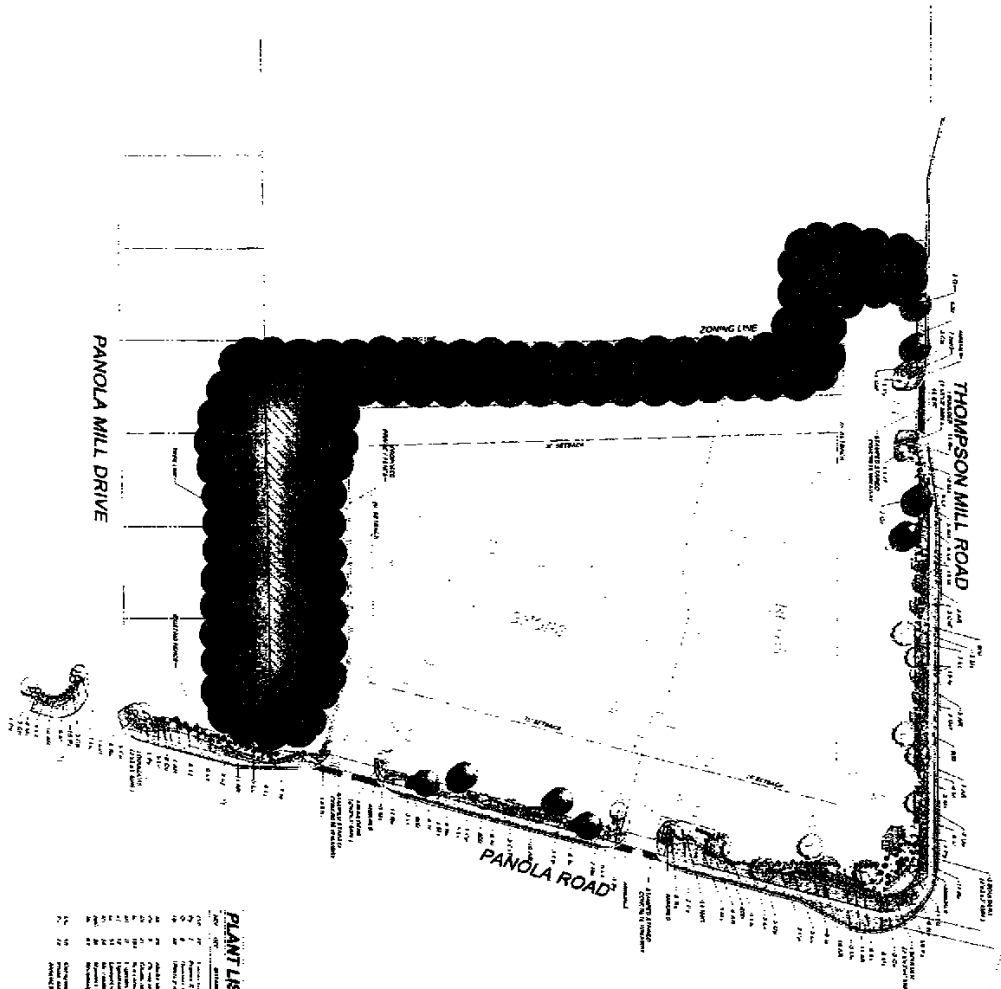


Panola Mill Station

DeKalb County, Georgia

EXHIBIT "C" to ZONING CONDITIONS

Landscape Plan

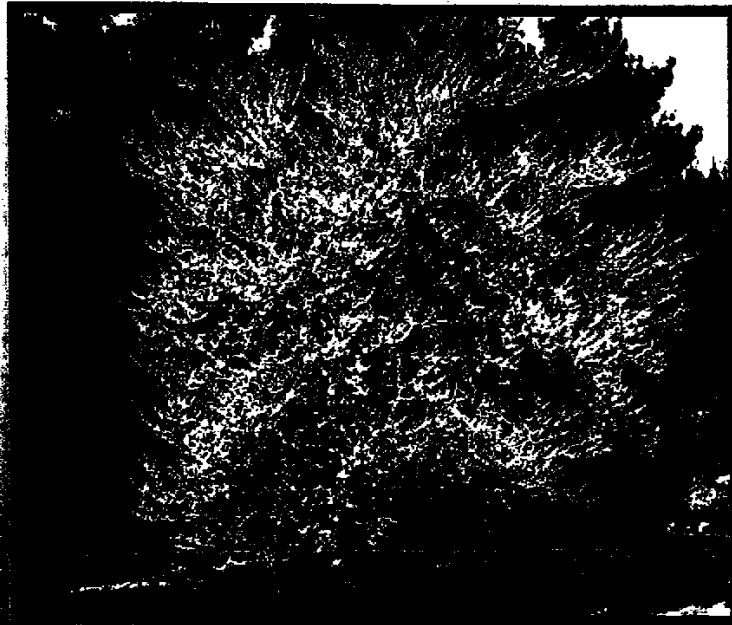


PLANT LIST

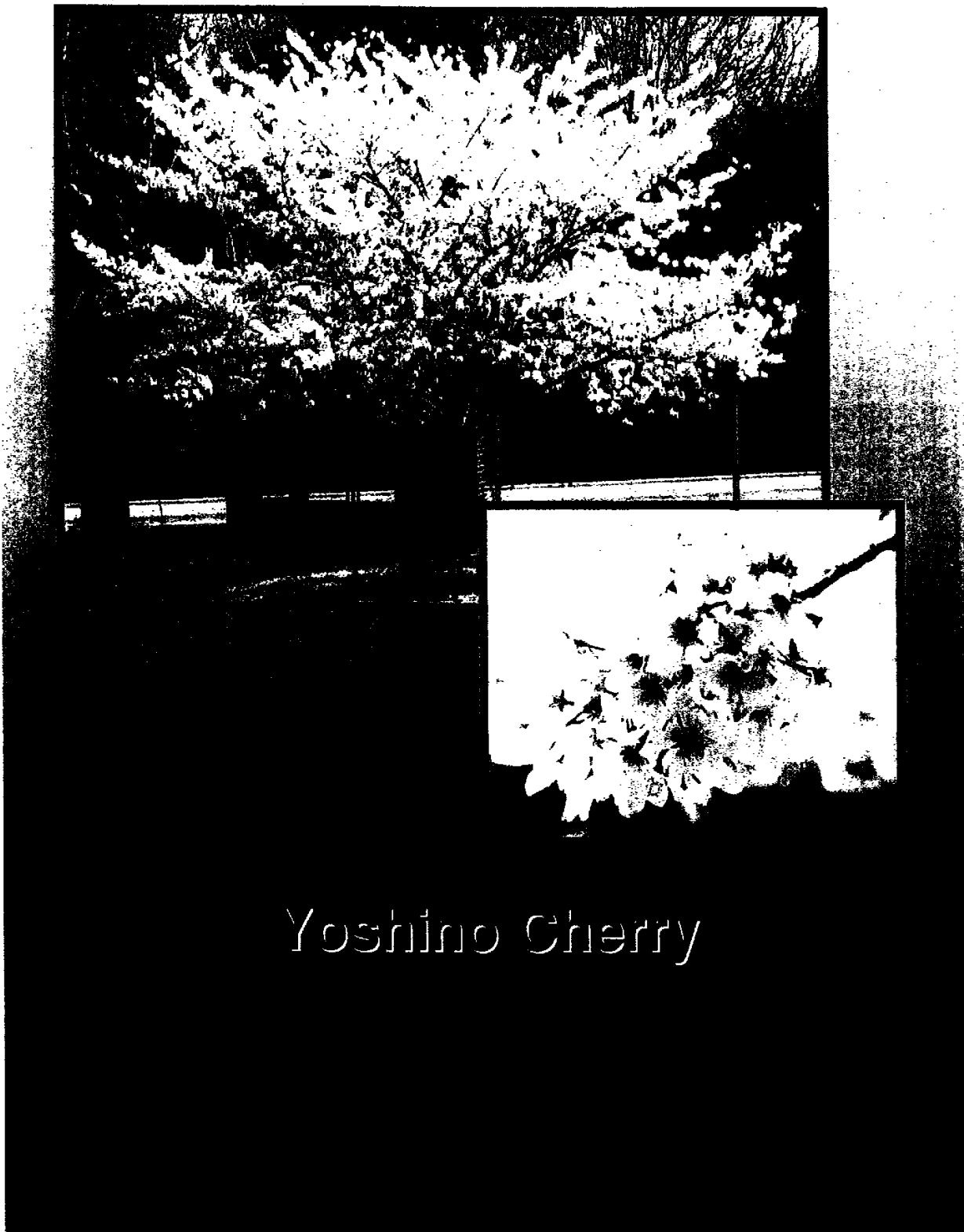
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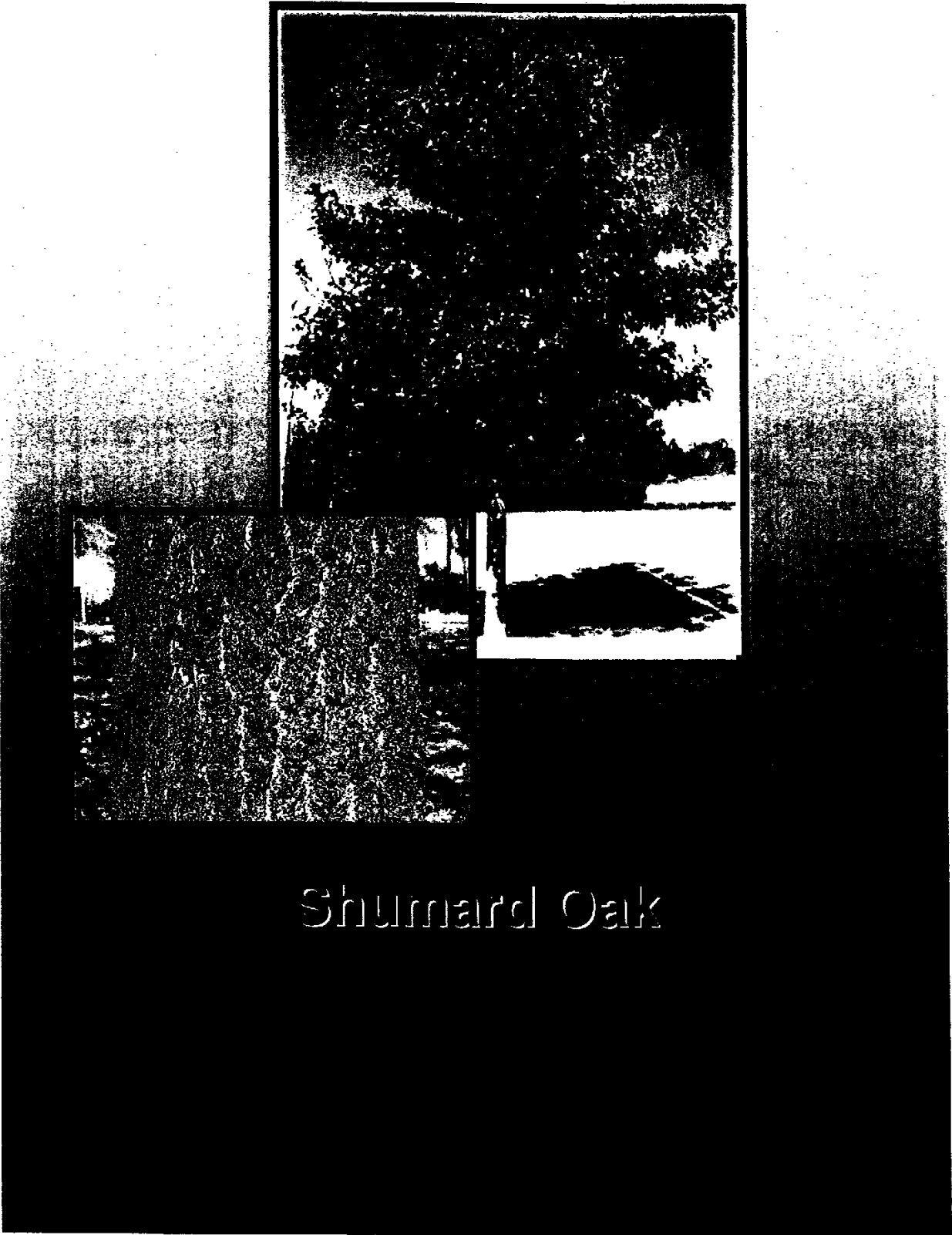
<p>DATE: 01/11/2011 DRAWN BY: J. BARNETT CHECKED BY: J. BARNETT PROJECT: PANOLA ROAD RETAIL</p>	 <p>LAI ENGINEERING</p>	<p>LAI ENGINEERING PARKWAY CENTER - 1800 PARKWAY PL. - STE. 720 MARIETTA, GA 30067 PHONE: 770.423.0877 FAX: 770.423.1262 WWW.LAIENGINEERING.COM</p>	<p>PANOLA ROAD RETAIL 2156 PANOLA ROAD PREPARED FOR: CONCRETE DEVELOPMENT PARTNERS, LLC LITHONIA, GEORGIA</p>
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Forest Pansy Redbud



Yoshino Cherry



Shumard Oak



Lace Bark Elm



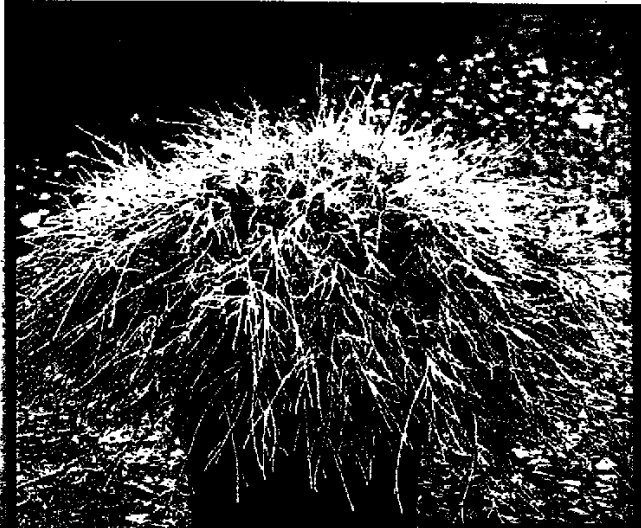
Rose Creek Abelia



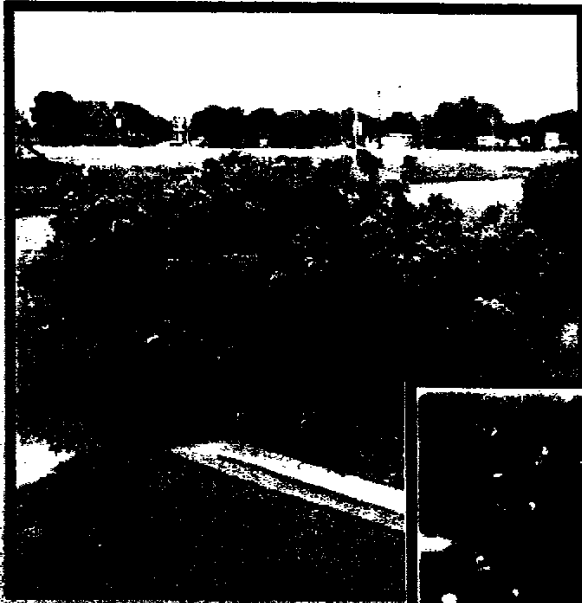
Slender Hinoki



Carissa Holly



Golden Mop Cypress



Raspberry Dazzle Crepe Myrtle

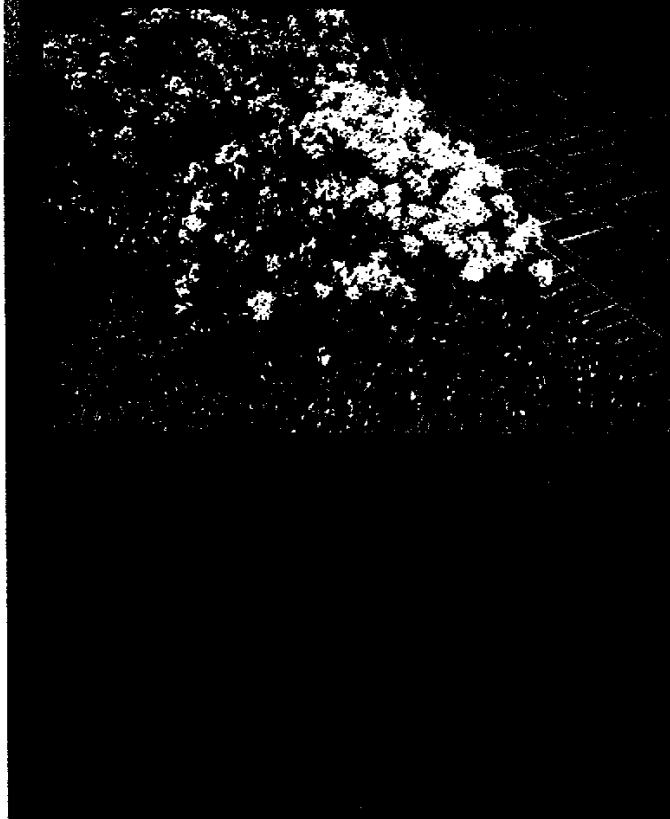


Euonymus
Wintercreeper

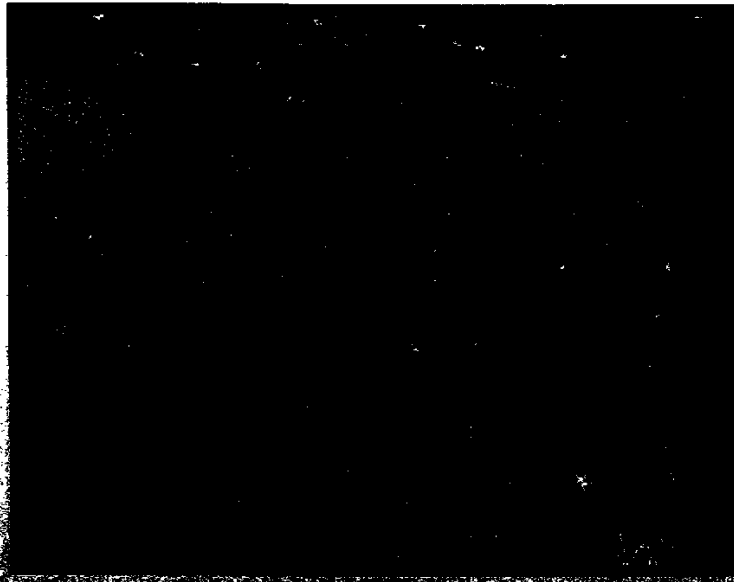




Recurve Ligustrum



Georgia Petite
Indian Hawthorn



Ruby Loropetalum



Maiden Grass