

STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF STONECREST

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF  
2 STONECREST, GEORGIA, BY AMENDING DIVISION 5 (STONECREST  
3 AREA OVERLAY DISTRICT) OF ARTICLE 3 (OVERLAY DISTRICT  
4 REGULATIONS); DIVISION 1 (GENERAL PROVISIONS) OF ARTICLE 1  
5 GENERAL REQUIREMENTS; ARTICLE 4 (USE REGULATIONS) OF DIVISION  
6 2 (SUPPLEMENTAL USE REGULATIONS) WITHIN CHAPTER 27 (ZONING  
7 ORDINANCE); TO PROVIDE SEVERABILITY; TO PROVIDE A PENALTY; TO  
8 PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; TO  
9 PROVIDE AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER  
10 LAWFUL PURPOSES.

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

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

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

17 WHEREAS, the Mayor and Council desire to amend Division 5 (Stonecrest  
18 Area Overlay District) of Article 3 (Overlay District Regulations);  
19 Division 1 (General Provisions) of Article 1 General Requirements; Article 4 (Use  
20 Regulations) of Division 2 (Supplemental Use Regulations) within Chapter 27 (Zoning

Ordinance) of the City's Code; and

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

**WHEREAS**, the Director of Planning and the Planning Commission can recommend approval based on the City Staff Report; and

**WHEREAS**, a public hearing pursuant to the provisions of the Zoning Procedures Act has been properly held prior to the adoption of this Ordinance; and

**WHEREAS**, the health, safety, morals and general welfare of the citizens of the City will be positively impacted by the adoption of this Ordinance.

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

**Section 1.** The Code of Ordinances of the City of Stonecrest, Georgia is hereby amended by amending Division 5 (Stonecrest Area Overlay District) of Article 3 (Overlay District Regulations); Division 1 (General Provisions) of Article 1 General Requirements; Article 4 (Use Regulations) of Division 2 (Supplemental Use Regulations) within Chapter 27 (Zoning Ordinance) by adopting the provisions set forth in Exhibit A attached hereto and made a part by reference.

**Section 2.** That text added to current law appears in bold underlined. Text removed from current law appears struck through.

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

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

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

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

**Section 5.** All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

**Section 6.** The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Stonecrest.

**Section 7.** It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of Stonecrest, Georgia.

**ORDAINED this \_\_\_\_ day of \_\_\_\_\_ 2022.**

**CITY OF STONECREST, GEORGIA**

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**George Turner, Mayor Pro Tem**

**ATTEST:**

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**City Clerk**

**APPROVED AS TO FORM:**

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**City Attorney**

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**EXHIBIT A**  
**(SEE ATTACHED)**

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**Chapter 27 – Zoning**

**ARTICLE 3. – OVERLAY DISTRICT REGULATIONS**

**DIVISION 5. STONECREST AREA OVERLAY DISTRICT**

**Sec. 3.5.15. – Low-rise mixed-use zone (Tier III)**

A. Permitted uses and structures. The principal uses of land and structures allowed in the Tier III: Low-Rise Mixed-Use Zone of the Stonecrest Area Overlay District are as provided below:

1. All uses authorized in the C-1 and C-2 (General Commercial) District, O-I (Office Institutional) District, O-D (Office Distribution) District, ~~M (Light Industrial) District~~, and MR-2 (Medium Density Residential) District except those listed in B., below.

**ARTICLE 1. – GENERAL REQUIREMENTS**

**DIVISION 1. GENERAL PROVISIONS**

**Sec. 1.1.17. – Reversion of parcels which were rezoned from industrial to residential.**

**Any parcel which was rezoned by DeKalb County prior to incorporation from industrial to residential at the request of the owner, and is subsequently vacant for twelve months or is partly or entirely used for industrial purposes for twelve months shall be deemed to have reverted to the prior industrial zoning. Upon determining that a reversion has taken place, the planning director shall notify the property owner and shall begin a city-initiated rezoning of the property back to industrial for Planning Commission recommendation and City Council action.**

**ARTICLE 4. – USE REGULATIONS**

**DIVISION 2. SUPPLEMENTAL USE REGULATIONS**

**Sec. 4.2.62. – Special Land Use Permit (SLUP) required for residential development adjoining to industrial.**

**A special land use permit shall be required for any proposed residential development or construction which is adjoining to industrially zoned parcel(s), unless one or more of the following criteria are met:**

**A. A one hundred fifty (150) foot undisturbed transitional buffer zone exists or will be observed along the adjoining property line. The buffer zone may be within the residential parcel, the industrial parcel, or both.**

**B. The industrial parcel is separated from the residentially zoned parcel by a stream buffer.**

**C. The residential parcel is protected by conditions of zoning which were previously imposed on the industrial parcel for the purpose of protecting residential parcels.**

**D. The residential parcel was rezoned from industrial to residential at the request of a present or former property owner and conditions of rezoning were imposed on the residential parcel for the purpose of protecting the residential parcel.**





**PLANNING & ZONING STAFF REPORT**

**MEETING DATE: December 7, 2021**

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**GENERAL INFORMATION**

**Petition Number:** TMOD-21-013

**Applicant:** Stonecrest Planning and Zoning Department

**Project Location:** City-Wide

**Proposed amendment:** Amendment to Stonecrest Zoning Ordinance, Chapter 27, to mitigate the potential land use conflicts between residential and industrial land uses.

**FACTS AND ISSUES:**

- The city council has already adopted two text amendments that help to mitigate the potential impacts between residential and industrial land uses, in particular TMOD-21-010 and TMOD-21-011.
  - TMOD-21-010 placed prohibitions on certain heavy industrial activities in the city and removed residential land uses from industrial zones on the permitted land use table
  - TMOD-21-011 which revised the intent and purpose of the industrial zoning districts to discourage the conversion of industrial buildings to residential uses.
- This text modification offers several additional measures which are being presented in three parts:
  1. Modification of the authorized uses in the Stonecrest Area Overlay, Tier 3 by removing those uses allowed in the M district from being permitted to develop there. Note that there are no industrial uses in Tier 3 currently.
  2. Zoning reversion of parcels from residential to industrial that were originally rezoned from industrial to residential by DeKalb County many years ago and which are no longer used for residential purposes.





## PLANNING & ZONING STAFF REPORT

3. Requiring a Special Land Use permit for properties being rezoned for residential uses adjacent to industrial zoned properties where adequate transitional buffers are not in place.

Staff is recommending that the Planning Commission recommend approval of all three parts to the City Council, but by presenting this different tools in such a manner Planning Commission may election to different actions on each part.

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### **Part 1. Modification of Stonecrest Area Overlay, Tier 3 authorized use list.**

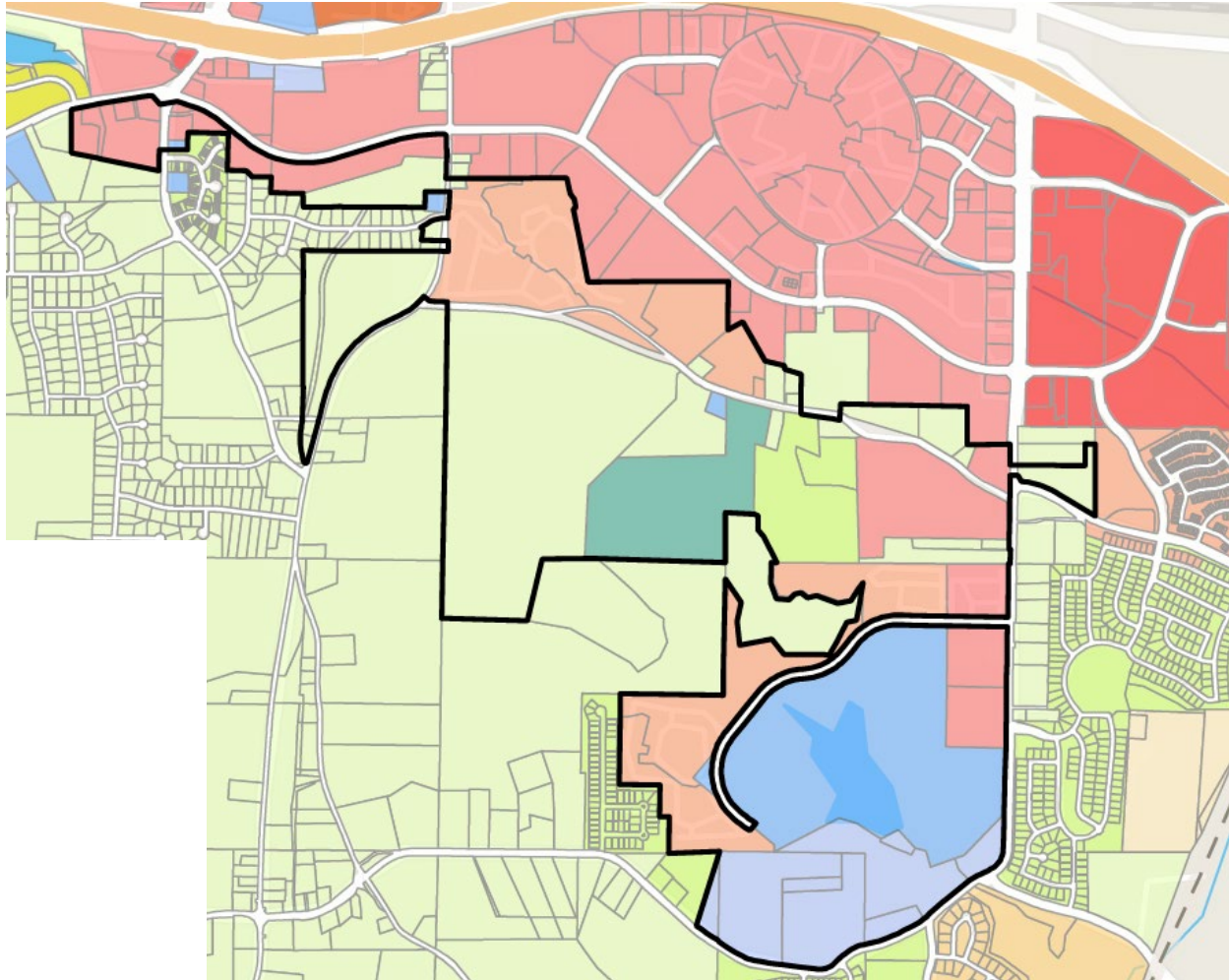
Proposal: Remove light industrial zoning (M) from the list of authorized uses in Tier 3 of the Stonecrest Area Overlay.













Reasons for proposal:

- One potential source of potential conflicts between residential and industrial uses is the permitted use list for Tier 3 of the Stonecrest Area Overlay. Tier 3 is the Low Rise Mixed Use Zone for which Sub-section 3.5.15.A. authorizes all uses allowed in the M – light industrial district to be developed by right, along with all uses allowed in C-1, C-2, O-I, OD, and MR-2, see Section.
- MR-2, Medium Density Residential District, in particular, allows a variety of residential uses, including single family homes, multi-family homes, and townhouses. And several such residential development have been built or proposed under this authorization.
- No industrial uses have yet to be built in Tier 3, despite the allowance to do so, but certainly could, which could cause potential land use conflict due to noise, truck traffic, and emissions. See underlying zoning map for Tier 3 on the following page.

## PLANNING & ZONING STAFF REPORT

### Stonecrest Area Overlay, Tier 3 and underlying zoning



- |   |  |
|---|--|
|  C-1 - Local Commercial                  |  R-100 - Residential Med Lot    |
|  C-2 - General Commercial                |  R-85 - Residential Med Lot     |
|  OIT - Office/Institutional/Transitional |  R-60 - Residential Small Lot   |
|  OI - Office/Institutional               |  RSM - Small Lot Residential    |
|  OD - Office/Distribution                |  MR-1 - Med Density Residential |
|  MU-4 - Mixed-Use High Density           |  MR-2 - Med Density Residential |



## PLANNING & ZONING STAFF REPORT

- The general Overlay Regulations contained in Sec. 3.1.1. also allows any use permitted in the underlying zoning to be built as long as they are not listed as a prohibited use in the Overlay. As the underlying zoning map for Tier 3 shows there are four zoning districts currently within Tier which are not on the authorized district list just described in Sub-section 3.5.15.A. The underlying but non-authorized zoning districts include MR-1, MU-4, RSM, and R-100. It should be noted that no parcels are currently zoned M in Tier 3.

**PART 1 RECOMMENDED TEXT CHANGES:** To remove the potential for a land use conflict between residential and industrial land uses. Revise Section 3.5.15 – Low rise mixed use zone (Tier III) of the Stonecrest Area Overlay as shown below in track changes.

### **Sec. 3.5.15. - Low-rise mixed-use zone (Tier III).**

A. Permitted uses and structures. The principal uses of land and structures allowed in the Tier III: Low-Rise Mixed-Use Zone of the Stonecrest Area Overlay District are as provided below:

1. All uses authorized in the C-1 and C-2 (General Commercial) District, O-I (Office Institutional) District, O-D (Office Distribution) District, ~~M (Light Industrial) District~~, and MR-2 (Medium Density Residential) District except those listed in B., below.

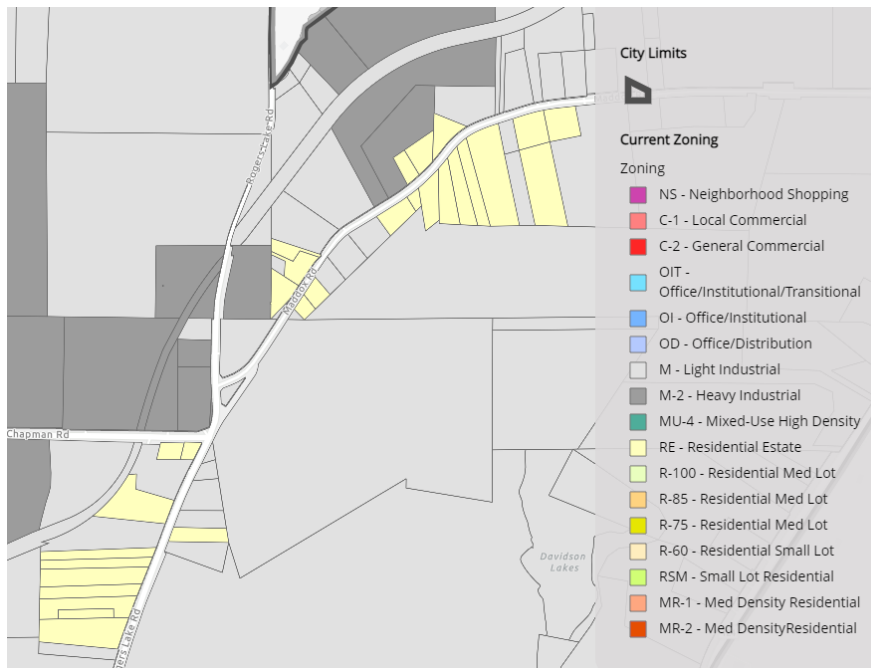
## PLANNING & ZONING STAFF REPORT

### Part 2. Reversion of previously zoned industrial property.

Proposal: Add new section providing that residential parcels which have not been used as residences for twelve months, or which have been used for industrial purposes for twelve months, are deemed to have reverted to industrial zoning if they formerly were rezoned to residential from industrial.

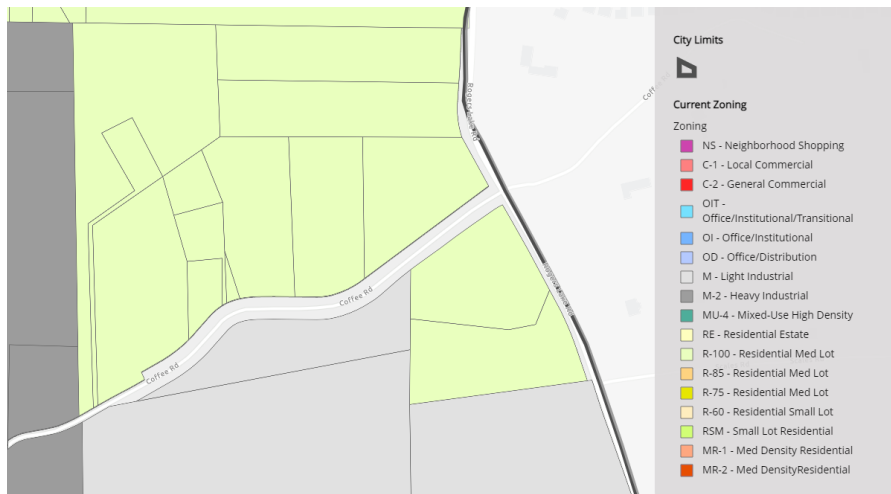
Reason for proposal: There are several parcels along Maddox Road, Rogers Lake Road and Coffee Road which were spot-zoned from the M (Light Industrial) District to residential in 1979, despite opposition from County planning staff due to questions about their future viability as residential. Those questions were well-founded. The properties remain surrounded by or near Light Industrially zoned properties. The rezoning to residential for many of this parcels has failed, either because houses on them are now derelict and abandoned or because the properties are being illegally used for industrial purposes.

### Zoning Map of the Maddox Road-Rodgers Lake Area



## PLANNING & ZONING STAFF REPORT

### Zoning Map of the Coffe Road Area



## PART 2 RECOMMENDED TEXT CHANGES:

[NEW]

### Sec. 1.1.17. – Reversion of parcels which were rezoned from industrial to residential.

Any parcel which was rezoned by DeKalb County prior to incorporation from industrial to residential at the request of the owner, and is subsequently vacant for twelve months or is partly or entirely used for industrial purposes for twelve months shall be deemed to have reverted to the prior industrial zoning. Upon determining that a reversion has taken place, the planning director shall notify the property owner and shall begin a city-initiated rezoning of the property back to industrial for Planning Commission recommendation and City Council action.

## Part 3. SLUP requirement for residential development adjacent to industrial zones.

Proposal: Add new section requiring a Special Land Use Permit for new residential development adjoining to industrial.

Reason for Proposal: Locating new residential adjoining to industrial land creates potential conflicts. Moreover, there currently is no public hearing process for the adjoining industrial owner to be notified of the proposed residential development; to be apprised of the plans for the development; and to obtain a public hearing on the merits of the residential development and the potential negative impact on the industrial property and the public welfare. Imposing a SLUP requirement on residential development will require a full, public staff analysis and a full public hearing before City Council, with an opportunity for members of the Stonecrest Community and the adjoining industrial owners to be heard.



## PLANNING & ZONING STAFF REPORT

### PART 3 RECOMMENDED TEXT CHANGES:

[NEW]

#### **Sec. 4.2.62. – Special Land Use Permit (SLUP) required for residential development adjoining to industrial.**

A special land use permit shall be required for any proposed residential development or construction which is adjoining to industrially zoned parcel(s), unless one or more of the following criteria are met:

- A. A one hundred fifty (150) foot undisturbed transitional buffer zone exists or will be observed along the adjoining property line. The buffer zone may be within the residential parcel, the industrial parcel, or both.
- B. The industrial parcel is separated from the residentially zoned parcel by a stream buffer.
- C. The residential parcel is protected by conditions of zoning which were previously imposed on the industrial parcel for the purpose of protecting residential parcels.
- D. The residential parcel was rezoned from industrial to residential at the request of a present or former property owner and conditions of rezoning were imposed on the residential parcel for the purpose of protecting the residential parcel.

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**STAFF RECOMMENDATION:** Recommend Approval of all three parts of TMOD -21-013 to the City Council.