

September 19, 2018

VIA EMAIL AND HAND DELIVERY

Nicole Dozier, Planning Director
City of Stonecrest Planning Department
3120 Stonecrest Blvd.
Stonecrest, GA 30038

Re: Modifications to LDG, LLC Amendment Application 18-003

Dear Nicole:

On behalf of LDG, LLC, please accept the attached modifications to the above referenced Application:

1. The Site Plan has been updated to incorporate the proposed residential and commercial development for the entire 58.216 acres, to address the issues raised by the surrounding property owners;
2. The First Page of the Application has been amended to show the updated acreage to 58.216 acres; and
3. Proposed Conditions for the Project which are acceptable to the Applicant.

We would like to schedule a meeting for the week of September 24th to discuss the enclosed. Please let us know your availability as soon as possible.

Sincerely,



Michèle L. Battle

AMENDED AND RESTATED
STATEMENT OF INTENT AND
IMPACT ANALYSIS

and

Other Material Required by
City of Stonecrest Zoning Ordinance
for the
Application for Zoning Amendment
to Change Conditions to CZ-04019

of

LDG Development
c/o Battle Law, P.C.

for

58.216± acres of land located at
7257 & 7247 Covington Highway, 2616 & 2601 Macedonia Road,
and 6560 & 6554 Chupp Road
City of Stonecrest, Georgia

Submitted for Applicant by:

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I. AMENDED AND RESTATED STATEMENT OF INTENT

The Applicant, LDG Development, LLC, is seeking a Major Change of Condition with respect to the following properties (collectively, the “Subject Property”) which on April 13, 2004 were rezoned to the designations below in Rezoning Case No. CZ-04019 by the DeKalb County Board of Commissioner as a part of a mixed used development:

Property Address	Tax Parcel Number	Current Zoning	Land Use Designation
7247 Covington Highway	1612105003	C-1	Light Industrial (LIND)
7257 Covington Highway	1612105015	RSM (formerly RA8)	Light Industrial (LIND)
7616 Macedonia Road	1612001013	RSM	Suburban (SUB)
2601 Macedonia Road	1610505003	C-1 & RSM	Light Industrial (LIND)
6560 Chupp Road	1612001003	RSM	Suburban (SUB)
6554 Chupp Road	1612001053	O-I	Highway Corridor (HC)

Excluded from this Application are the properties located at 6535 Chupp Road and 6582 Chupp Road which were a part of the CZ-04019 rezoning case, and rezoned to O-I. The applicant under the 2004 Rezoning Case, Wingate, Inc., failed to develop the Subject Property presumably due to the 2007 economic crash, which resulted in portions of the property being sold off or foreclosed upon. Lalitha, LLC (the “Current Owner”), acquired the Subject Property from State Bank & Trust Company in December of 2011. It was around this time that the DeKalb County Board of Commissioner amended the Stonecrest Overlay District (the “Overlay District”) to add the Subject Property to Tier IV of the Overlay District.

The following conditions were approved pursuant to CZ-04019 which are currently applicable to the Subject Property:

Subject Property and are connected to the previously proposed project, and substitute therefore the proposed conditions attached hereto as Exhibit "A" and submitted with this Application, for the development the following mixed use residential, commercial and retail project on the Subject Property, in accordance with Tier IV of the Stonecrest Overlay District:

Property Address	Tax Parcel Number	Current Zoning	Proposed Development
7247 Covington Highway	1612105003	C-1	Up to 10,000 sq. ft. Commercial
7257 Covington Highway	1612105015	RSM (formerly RA8)	Up to 96,000 sq. ft. office/commercial space
7616 Macedonia Road	1612001013	RSM	Townhome Apartment Units*
2601 Macedonia Road	1610505003	C-1 & RSM	Up to 10,000 sq. ft. Commercial
6560 Chupp Road	1612001003	RSM	Townhome Apartment Units*
6554 Chupp Road	1612001053	O-1	Front Entrance to Project

*The Applicant is proposing to develop 240 Townhome Units on the Subject Property as shown on the Zoning Exhibit dated September 18, 2018 prepared by Southeastern Engineering, Inc. for LDG Development, LLC (the "Revised Site Plan") submitted herewith.

This document is submitted both as a Statement of Intent regarding this Application, a preservation of the Applicant's constitutional rights, and the Impact Analysis of this Application as required by the City of Stonecrest's Zoning Ordinance, Section 27-7.3 Division 3. A surveyed plat and conceptual site plan of the Subject Property controlled by the Applicant has been filed contemporaneously with the Application, along with other required materials.

III. IMPACT ANALYSIS

- (a) Suitability of use: The proposed project will permit uses that are suitable in view of the uses and developments adjacent and nearby the Subject Property. The proposed project is consistent with the existing intended use of the Subject Property, and with the Overlay District. The major distinction is that the total number of residential units has been reduced from over 300 fee-simple units to 240 unit multi-family units. This in many ways is a distinction without significance, as the Evans Mill Townhome community was originally developed for fee simple units, but the majority of the units in the townhome community are rental units with tax values averaging less than \$30,000 per unit. The proposed development will allow for a significant upgrade in the rental townhome market in the area, and will bring roof tops to the area that will allow for the development of the commercial components of the Subject Property in the future. Furthermore, the proposed residential units will be developed for affordable housing for both low income and work-force housing, for people with incomes ranging from 30% to 80% of the median area income. This will be only the second affordable housing development in the Stonecrest area using the Low-Income Housing Tax Credit Program (LIHTC). The LIHTC program is a public/private partnership that provides alternative financing for the development of high-quality multi-family housing at affordable rates, so that the residents of the community will not expend more the 30% of their total income on housing. This is the same ratio that all apartment complexes, and homebuyer lenders require. The beauty of the LIHTC program is that it is heavily regulated, and both the Georgia Department of Community Affairs, as well as the private investors, are committed to making certain that the apartment units are

well maintained and that all rules and regulations of the program are complied with so that the project does not lose its tax credit allocation. This is a great support to local cities and counties, as it insures that these apartment complexes will not result in a negative impact on the surrounding community due to blight and mismanagement.

Additionally, the square footage of the commercial/office component of the project has been increased from a minimum of 25,000 sq. ft. to a total of 116,000 sq. ft. to meet the 70/30 Residential to Commercial/Retail ratio required under Tier IV of the Overlay District.¹ It should be noted, however, that this increase in square footage does not result in the project requiring a Development of Regional Impact review by the Atlanta Regional Commission, which is triggered by a mixed use project having 400,000 sq. ft. or more:

Unit Type	Size	Square Footage
120 Townhome Units	1,050 sq. ft	126,000 sq. ft.
120 Townhome Unit	1,200 sq. ft	144,000 sq. ft.
Commercial/Retail		116,000 sq. ft.
TOTAL SQ. FT.		386,000 sq. ft.

- (b) Effect on adjacent property: The uses of the Subject Property as contemplated in this Application will have no adverse impact on the adjacent property owners. The majority the

¹ The total proposed square footage is 386,000 sq. ft. with 270,000 sq. ft. of Residential: 270,000 sq. ft. divided by 386,000 sq. ft. = 0.69948 or rounded .70 or 70%

property adjacent to the Subject Property is zoned M1 and located in Tier IV of the Stonecrest Overlay District and is either undeveloped or developed with light commercial uses. Along a portion of the East side of the Subject Property are a few parcels along Covington Highway that are rezoned R-75, which are also located in Tier IV of the Stonecrest Overlay District, along with the Evans Mill Townhome community which was built in 1986 and is currently zoned MR-2. The proposed development will result in a significant increase in the current value of the Subject Property, which will only benefit the surrounding properties. Additionally, the proposed development will allow for the development of the Subject Property in an area that has had no significant development in more than 20 years.

- (c) Economic use of current zoning: The Subject Property has no economic value as currently zoned. The Subject Property is subject to conditions many of which are in conflict with and superseded in part by the Overlay District. As a result, the project as originally contemplated is undevelopable, which has contributed to the Subject Property remaining undeveloped for in excess of 14 years.
- (d) Effect on public facilities: The Subject Property is in an area with public utility availability. The proposed rezoning will not cause excessive use of streets, transportation facilities, or utilities in the area. According to the Impact Report by the DeKalb County Board of Education, Stoneview Elementary has exceeded its capacity. Lithonia Middle School and Lithonia High School are close to reaching its capacity. It should be noted, however, that this proposed development was originally approved in 2004 by the Board of Commissioners. Therefore, there has been ample time for the DeKalb County School Board to add the additional capacity needed to accommodate the anticipated student

population to be generated by the proposed development. Furthermore, this development is a reduction of the originally contemplated density on the Subject Property. Presumably the proposed development will force the DeKalb County Board of Education to expand the capacity of the existing schools in the area or building new schools to accommodate the additional students. This development will generate a significant amount of ad valorem taxes for the School Board which such help facilitate addressing capacity concerns in the area.

With respect to transportation in the area, the Applicant has obtained a traffic study which is being submitted to the Stonecrest Planning Staff as part of this Application. The Subject Property has frontage on four streets: Lithonia Industrial Boulevard, Covington Highway, Chupp Road and Macadonia Road. There is a light at the intersection of Chupp Road and Lithonia Road, and Chupp Road has access to Covington Highway. The proposed development will result in right of way dedication along Chupp Road. The Applicant will comply with any other right of way dedications and road improvements required by GDOT and the DeKalb DOT in connection with the development of the project.

- (e) Effect on historic building, sites, etc. The approval of this Application will not have any adverse impact on any historic buildings, sites, districts or archaeological resources in the area.
- (f) Environmental Impact. Based upon the Environmental Site Analysis, the approval of this Application will not result in any adverse environmental impact. The Applicant will be adhering to the seventy-five (75) foot stream buffer requirements, and the development has

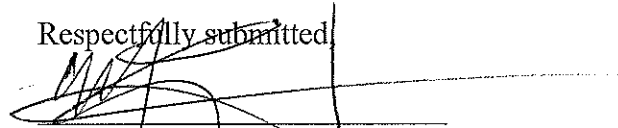
ample greenspace to aid in reducing run-off from the site, in addition to providing adequate stormwater detention and water quality facilities.

IV. CONCLUSION

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

This 18th of September, 2018.

Respectfully submitted,



Michèle L. Battle, Esq.
Roxanne E. Daley, Esq.
Attorney For Applicant

CONSTITUTIONAL ALLEGATIONS

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 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 the Due Process Clause of the Fourteenth Amendment to 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 the 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 and the owner of the Property an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the City of Stonecrest's City Council without any rational basis therefore, constituting an abuse of discretion in violation of 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, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the City of Stonecrest City Council to grant the Major Change of Condition

Application 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 approval of the Major Change of Condition Application 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 Subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

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

A refusal by the Stonecrest City Council to grant the Major Change of Condition Application for the Subject Property as requested by the Applicant would be a violation of the Fair Housing Act of 1968, 42 U.S.C. Sections 3601-3619 (2000) as amended, as well as the Georgia Fair Housing Law of 1988, as amended, codified as O.C.G.A. Section 8-3-200 et. seq.



Amendment Application

Owner Information

Owner's Name: LALITHA LLC		
Owner's Address: 2056 SHAUDI LN, ATLANTA GA 30345		
Phone: (404) 274-1965	Fax:	Email: ckantipudi@gmail.com>
Property Address: See attached property information		Parcel Size: 51.4 acres 58.216 acres
Parcel ID: See attached property information		
Current Zoning Classification: See attached property information		
Requested Zoning Classification: N/A		

Property Information

Name: LDG Development c/o Battle Law, P.C.	
Address: One West Court Square, Suite 750, Decatur, GA 30030	
Phone: (404) 601-7616	Fax:
Cell:	Email: red@battlelawpc.com

Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements? Yes No

1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties?
see attached Statement of Intent and Impact Analysis

2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned?

3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?

4. Are other existing or changing conditions affecting the existing use or usability of the development of the property which give supporting grounds for either approval or disapproval of the zoning proposal?

5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources?

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

Questionnaire

PROPERTY INFORMATION

TOTAL: 58.216 ACRES

16 105 05 003
2601 MACEDONIA ROAD
LITHONIA 30058
OWNER: LALITHA LLC
ZONING: C-1 (Local Commercial)
LAND USE: LIND (LIGHT INDUSTRIAL)
STONECREST OVD TIER 4

16 121 05 015
7257 COVINGTON HIGHWAY
LITHONIA 30058
OWNER: LALITHA LLC
ZONING: RSM (Small Lot Residential)
LAND USE: LIND
STONECREST OVD TIER 4

16 121 05 003
7247 COVINGTON HIGHWAY
LITHONIA 30058
OWNER: LALITHA LLC
ZONING: C-1 (Local Commercial)
LAND USE: LIND
STONECREST OVD TIER 4

16 120 01 013
2616 MACEDONIA ROAD
LITHONIA 30058
OWNER: LALITHA LLC
ZONING: RSM (Small Lot Residential)
LAND USE: SUB (SUBURBAN)
STONECREST OVD TIER 4

16 120 01 003
6560 CHUPP ROAD
LITHONIA 30058
OWNER: LALITHA LLC
ZONING: RSM
LAND USE: SUB
STONECREST OVD TIER 4

16 120 01 053

6554 CHUPP ROAD

LITHONIA 30058

OWNER: LALITHA LLC

ZONING: OI (Office/Institutional)

LAND USE: HC (HIGHWAY CORRIDOR)

STONECREST OVD TIER 4

PROPOSED REVISIONS CONDITIONS OF ZONING FOR RZ-18-003
SEPTEMBER 18, 2018

1. The Subject Property shall be developed in general conformity with the Zoning Exhibit dated September 18, 2018 (the “Zoning Exhibit”) prepared by Southeastern Engineering, Inc. for LDG Development and submitted to the Stonecrest Planning Department on September 19, 2018.
2. The primary entrance to the residential component of the Development shall be located off of Chupp Road. If a secondary access point is required, the location of the secondary access point shall be determined by GDOT and/or the City of Stonecrest.
3. Final site plan to be approved by the Planning Director, which plan shall be consistent with the Zoning Exhibit, subject to modifications required by the City Engineer.
4. Prior to the issuance of a Land Development Permit, the City of Stonecrest Planning and Development Department shall be provided with a copy of the recorded unified development agreement for the Development.
5. Developer shall provide for at least one recreation area that shall feature a playground and gazebo for resident use.
6. Developer shall provide interior sidewalks/pathways/trails linked to the recreation area(s).
7. Developer shall install sidewalks on both sides of the internal streets of all parcels of the Development.
8. All residential dwelling units shall have a minimum heated square footage of 1050sq. ft. for 2 bedroom and 1200 sq. ft. for 3 bedroom. The total number of residential units shall not exceed 240 units.
9. Dwelling units shall have a minimum of at least 5 different designs and staggered facades.
10. Developer shall plant at least 1 hardwood shade tree of 8-10 feet in height in the front yard of each dwelling unit prior to issuance of a certificate of occupancy for that dwelling. If planting should occur off season, Developer may enter into escrow arrangements with the City of Stonecrest.
11. Development shall comply with the City of Stonecrest tree ordinance.
12. All dwelling units shall have an attached garage for at least one (1) car OR have parking for 1.5 cars per unit in a common parking area(s).
13. All facades shall consist of brick, stucco, stone, shake shingles, or hardiplank; no vinyl or wood except one eaves, dormers, gables and similar architectural accents.

14. Detention facilities shall be screened from view by a 6-foot fence and evergreen trees and shrubs.
15. All utilities shall be underground.
16. Developer shall provide landscaping and entry treatment for each public road entrance to the Development.
17. Developer shall construct deceleration lanes as required by Public Works.
18. The front façade of the commercial buildings in the Development shall consist of brick masonry, stone masonry and/or textured face concrete block. Additionally, a minimum of 50% of the two sides of the building shall consist primarily of brick masonry, stone masonry and/or textured face concrete block.
19. Security fencing or other screening may be erected around the perimeter of the Development.
20. Developer shall extend the sidewalk along Chupp Road to at least one MARTA bus stop, and provide a designated area near the front entrance off of Chupp Road for the school bus stop.