



PLANNING COMMISSION / MAYOR AND CITY COUNCIL STAFF REPORT

SLUP-22-012

Planning Commission March 7, 2023

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**GENERAL INFORMATION**

|                                      |  |
|--------------------------------------|--|
| <b>Petition Number:</b>              | SLUP-22-012  |
| <b>Applicant:</b>                    | Dionne Robinson  |
| <b>Owner:</b>                        | Dionne Robinson  |
| <b>Project Location:</b>             | 7173 Covington Highway   |
| <b>District:</b>                     | District 2   |
| <b>Acreage:</b>                      | 1.06 acres   |
| <b>Existing Zoning:</b>              | M (Light Industrial) District  |
| <b>Proposed Request:</b>             | Special Land Use Permit to operate as a late-night establishment.  |
| <b>Comprehensive Plan Community:</b> | Light Industrial   |
| <b>Area Designation</b>              | Light Industrial   |
| <b>Staff Recommendations:</b>        | <i>Denial</i>  |
| <b>Planning Commission:</b>          | <i>January 3<sup>rd</sup> a recommendation of deferral to require applicant to go back before CPIM to allow more time to meet with the community and staff</i> |
| <b>City Council:</b>                 | <i>N/A</i>   |



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Aerial Map



ZONING CASE: SLU-22-012

ADDRESS: 7173 Covington Highway, STONECREST, GA 30058

PARCEL NUMBER: 16 121 03 009

CURRENT ZONING: M (Light Industrial)

FUTURE LAND USE: Light Industrial (LIND)



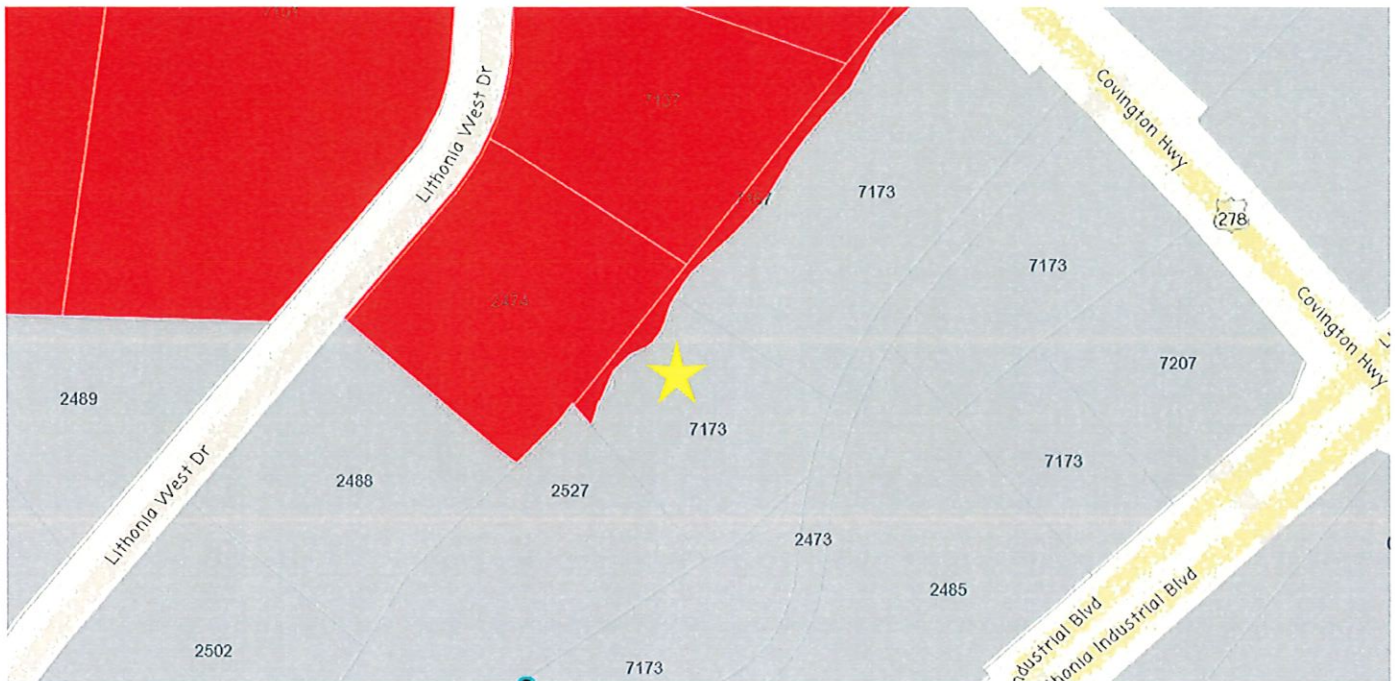
SUBJECT PROPERTY



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Zoning Map



**ZONING CASE: SLU-22-007**

ADDRESS: 7173 Covington Highway, STONECREST, GA 30058

PARCEL NUMBER: 16 121 03 009

CURRENT ZONING: M (Light Industrial)

FUTURE LAND USE: Light Industrial



SUBJECT PROPERTY





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### **PROJECT OVERVIEW**

#### **Location**

The subject property is located at 7173 Covington Highway in the Mini Mall Commercial Complex. The property is bounded by commercial, industrial and residential development on all sides.

#### **Description and Background**

The subject property was constructed in 1968 as a warehouse building.

The applicant received a business license for a Special Event facility on September 13, 2021. The intent of a Special Event Facility:

Special events facility means a building and/or premises used as a customary meeting or gathering place for personal social engagements or activities, where people assemble for parties, weddings, wedding receptions, reunions, birthday celebrations, other business purposes, or similar such uses for profit, in which food and beverages may be served to guests.

1.

The term "special events facility" shall not include places of worship.

2.

*Small* special event facility shall mean assembly and entertainment uses with a seating or occupant capacity of no more than 100 persons.

3.

*Large* special event facility shall mean assembly and entertainment uses with a seating or occupant capacity of more than 100



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### Interior Floor Plan

The Robinsons have been cited several times by the City of Stonecrest Code Enforcement for violation of the business license permit and operation after 12:30 in “club” like manners. There have been reports of DJs, alcohol being served (no record of an alcohol permit) and noise complaints. After various complaints, staff advised the applicant to obtain a Special Land Use Permit for a late-night establishment due to the manner in which they were operating.

### Elevations







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16 121 03 009 11/20/2016



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### Public Participation

Property owners within 1000 feet of subject property were mailed notices of the proposed rezoning on November 30th. The community meeting was held on December 13<sup>th</sup>, 2022, at 6:00 pm at via zoom.com. There were 25 public participants involved in the meeting. Seven (7) people spoke against the application. There were no community participants that spoke in favor. Many of the comments referenced intrusive loud music up until 6am, screeching tires, break-ins, vandalism, etc. Mrs. Robinson stated that she was “forced” by staff to become a late-night establishment and that she rather be a special event facility. Participants requested for staff to deny the request.

### CRITERIA OF REVIEW

*Section 7.4.6 of the Stonecrest Zoning Ordinance lists nineteen factors to be considered in a technical review of a special land use permit completed by the Community Development Department and Planning Commission. Each criterion is listed with staff analysis.*

- A. Adequacy of the size of the site for the use contemplated and whether the adequate land area is available for the proposed use, including the provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.**

The subject property was formerly used as an industrial warehouse. DeKalb County Tax Assessor’s office is reporting the size as approximately 35,400 sf. This may or may not be accurate. The last permit pulled for this site was in July of 2014. This property is not adequate land use for a late-night establishment.

- B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.**

The proposed use of a late-night establishment is located adjacent to a residential, industrial, and commercial developments. The proposed use is not compatible with other properties and land uses in the district.

- C. Adequacy of public services, public facilities, and utilities to serve the proposed use.**

There are adequate public services, public facilities, and utilities to serve the proposed use.

- D. Adequacy of the public street on which the use is proposed to be located and whether there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.**

The proposed use can produce a traffic-carrying capacity that is not ideal for an industrial park. It has been reported at the Community Planning Information Meeting that the noise, unduly traffic increase and crime has increased since the applicant has come into the area.

- E. Whether existing land uses located along access routes to the site will be adversely affected by the vehicles' character or the volume of traffic generated by the proposed use.**





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The existing land use located along the access routes to the site can be adversely affected by the vehicles' character or the volume of traffic generated by the proposed use. The industrial park is designed to handle a low impact volume of traffic.

- F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of a fire or another emergency.**

The site's existing industrial structures are accessed by vehicles via a concrete apron cut with driveway on Covington Highway. Emergency vehicles can access the site from the existing driveway. There is another ingress/egress point from Lithonia Industrial Boulevard.

- G. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.**

The proposed use has created an adverse impact upon adjacent residential land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use. As noted above, many residential adjacent property owners have reported noise to Code Enforcement.

- H. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.**

The proposed use has created an adverse impact upon any adjoining land use because of the hours of operation. The property is in an existing industrial development.

- I. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.**

The proposed use will create an adverse impact upon any adjoining land use because of the manner of operation. The existing use is an unauthorized late-night establishment in an industrial park.

- J. Whether the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.**

Stonecrest Zoning Ordinance was adopted from DeKalb County and is currently undergoing updates. When adopted, a special event facility and late-night establishment were permitted uses in a light industrial zoning district. The intent of light industrial is to provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan. Future uses should adhere to the intent of the zoning district. The proposed use is not consistent with the zoning district classification requirement in which the use is proposed to be located.





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**K. Whether the proposed use is consistent with the policies of the comprehensive plan.**

The proposed use of late-night establishment is a use not consistent with the policies of the comprehensive plan. Located in the Suburban character area, the character area policy states residential dwelling as an appropriate land use.

**L. Whether the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.**

The proposed use will not require a buffer zone and transitional buffer zone.

**M. Whether there is adequate provision of refuse and service areas.**

The owner/operator will provide an adequate refuse and service area.

**N. Whether the length of time for which the special land use permit is granted should be limited in duration.**

Staff believes there shall not be a grant of a special land use permit made due to the historical nature of this use in an industrial setting, adjacent to a residential community.

**O. Whether the size, scale, and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale, and massing of adjacent and nearby lots and buildings.**

The proposed use will not change any exterior design of the existing building. The current building is the appropriate size for the subject property and in relation to the size, scale, and massing of the nearby houses.

**P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.**

This use will not adversely affect any historic buildings, sites, districts, or archaeological resources.

**Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permits.**

The proposed use submitted to Staff has met all the requirements within the supplemental regulation Sec 4.2.58 set forth by the zoning ordinance.

**R. Whether the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.**

The subject property is existing and does not exceed the height of nearby residential structures. The existing building would be similar to the building height abutting the property located in the immediate area. There may be negative impact on any adjoining lot.



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- S. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.

The proposed use is not compatible with the surrounding area and would conflict with the overall objective of the comprehensive plan.

### STAFF RECOMMENDATION

Staff recommends *Denial of SLUP-22-012*.



**DEED TO SECURE DEBT,  
ASSIGNMENT OF LEASES AND RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING**

This DEED TO SECURE DEBT, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (as amended, restated, replaced, supplemented, or otherwise modified from time to time, the "Security Instrument") dated as of February 10, 2017, is executed by Seek First, L.L.C., a Georgia limited liability company, as grantor ("Borrower"), to and for the benefit of Cherrywood Commercial Lending, LLC, a limited liability company organized and existing under the laws of the State of Delaware, as grantee ("Lender").

Borrower, in consideration of (i) the loan in the original principal amount of Seven Hundred Eighty Five Thousand and 00/100 Dollars (\$785,000.00) (the "Mortgage Loan") evidenced by that certain Promissory Note dated as of the date of this Security Instrument, executed by Borrower and made payable to the order of Lender maturing on February 1, 2042 (as amended, restated, replaced, supplemented, or otherwise modified from time to time, the "Note"), (ii) that certain Loan and Security Agreement dated as of the date of this Security Instrument, executed by and between Borrower and Lender (as amended, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement"), and (iii) the security title created and transferred to Lender by this Security Instrument, and to secure to Lender the repayment of the Indebtedness (as defined in this Security Instrument), and all renewals, extensions and modifications thereof, and the performance of the covenants and agreements of Borrower contained in the Loan Documents (as defined in the Loan Agreement), excluding the Environmental Indemnity Agreement (as defined in this Security Instrument), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, irrevocably and unconditionally grants, warrants, conveys, bargains, sells, and assigns to and for the benefit of Lender, with power of sale and right of entry and possession, the Mortgaged Property (as defined in this Security Instrument), including the real property located in DeKalb County, State of Georgia, and described in Exhibit A attached to this Security Instrument and incorporated herein by reference (the "Land"), to have and to hold such Mortgaged Property unto Lender and Lender's successors and assigns, forever; Borrower hereby releasing, relinquishing and waiving, to the fullest extent allowed by law, all rights and benefits, if any, under and by virtue of the homestead exemption laws of the Property Jurisdiction (as defined in this Security Instrument), if applicable.

Borrower represents and warrants that Borrower is lawfully seized of the Mortgaged Property and has the right, power and authority to grant, warrant, convey, bargain, sell, and assign the Mortgaged Property, and that the Mortgaged Property is not encumbered by any Lien (as defined in this Security Instrument) other than Permitted Encumbrances (as defined in this Security Instrument). Borrower covenants that Borrower will warrant and defend the title to the Mortgaged Property against all claims and demands other than Permitted Encumbrances.

Borrower and (by its acceptance hereof) Lender covenants and agrees as follows:





**CITY OF STONECREST**

**PUBLIC NOTICE**

THE CITY OF STONECREST WILL HOLD A PUBLIC HEARING FOR  
ON **2023** AT CITY HALL  
AT **6 PM** THE APPLICANT IS REQUESTING  
THE FINAL HEARING BEFORE MAYOR AND COUNCIL  
IF REQUIRED IS SCHEDULED ON **20** AT **7 PM** AT  
STONECREST CITY HALL  
3120 STONECREST BLVD, STONECREST GA 30088  
(770) 224-0200  
WWW.STONECRESTGA.GOV





**CITY OF STONECREST**  
**PUBLIC NOTICE**

THE CITY OF STONECREST WILL HOLD A PUBLIC HEARING FOR  
ON **NOVEMBER 20, 2013** AT CITY HALL  
AT 6 PM. THE APPLICANT IS REQUESTING  
THE FINAL HEARING BEFORE MAYOR AND COUNCIL  
IF REQUIRED IS SCHEDULED FOR  
**NOVEMBER 20, 2013** AT 10 AM AT  
**STONECREST CITY HALL, STONECREST GA, 30088**  
**3120 STONECREST BLVD, STONECREST GA, 30088**  
**(770) 224-0000**  
**WWW.STONECRESTGA.GOV**











