

**MAY 15, 2012 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 4**

ITEM # 2

PURPOSE

To consider amending the stipulations for Holbrook Investment Company regarding Z-20 (Surinder Tuteja) of 2006, for property located in Land Lot 549 of the 19th District, at the southeast intersection of Powder Springs Road and Milford Church Road.

BACKGROUND

The subject property is zoned Neighborhood Retail Commercial (NRC) for a retail use. The original approval included a stipulation that the owner/developer construct an auxiliary/right turn lane along Powder Springs Road. In lieu of the construction of the auxiliary/right turn lane, the applicant would dedicate and reserve the right of way for this improvement to Cobb County. The applicant would like to amend the condition due to several utilities near the intersection which includes fiber optic lines. The applicant would still have to build a deceleration lane for the driveway cut from Powder Springs Road. If approved, all other zoning stipulations would remain in effect.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed stipulation amendment.

Cobb D.O.T. recommends a deceleration lane for the driveway on Powder Springs Road.

ATTACHMENTS

Other Business Application and zoning stipulations.

Application for "Other Business"

Cobb County, Georgia

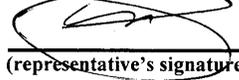
(Cobb County Zoning Division - 770-528-2045)

BOC Hearing Date Requested: 05/15/12

Applicant: Holbrook Investment Company, L.P. Phone #: (678) 524-9004
(applicant's name printed)

Address: 353 Shoal Creek Way, Dallas, GA 30132 E-Mail: rmannino@cityofcartersville.org
SAMS, LARKIN & HUFF, LLP 376 Powder Springs Street, Suite 100

Garvis L. Sams, Jr. Address: Marietta, GA 30064
(representative's name, printed)

 Phone #: (770) 422-7016 E-Mail: gsams@samslarkinbuff.com
(representative's signature)

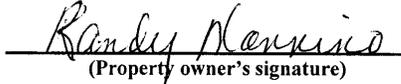
Signed, sealed and delivered in presence of:

 My commission expires: _____
Notary Public



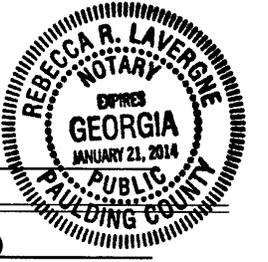
Titleholder(s) Holbrook Investment Company, L.P. Phone #: (678) 524-9004
(property owner's name, printed)
By: Randy Mannino

Address 353 Shoal Creek Way, Dallas, GA 30132 E-Mail: rmannino@cityofcartersville.org


(Property owner's signature)

Signed, sealed and delivered in presence of:

 My commission expires: _____
Notary Public



Commission District: 4 (Thompson) **Zoning Case:** Z-20 (2006)

Date of Zoning Decision: February 21, 2006 **Original Date of Hearing:** February 21, 2006

Location: Southeast intersection of Powder Springs Road and Milford Church Road

Land Lot(s): 549 **District(s):** 19th

State specifically the need or reason(s) for Other Business: To amend the stipulation/condition requiring the construction of an auxiliary/right-turn lane along the subject property's frontage and, in lieu thereof, requiring the dedication and reservation of right-of-way for the purposes of construction of an auxiliary/right-turn lane along the subject property's frontage (12 feet in width).

(List or attach additional information if needed)

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~~Z-19 ECI, INC. (owner) requesting Rezoning from R-30 to R-15 for the purpose of an Addition of Property to a Previously Approved Subdivision in Land Lot 249 of the 16th District. Located on the west side of Wesley Chapel Road, south of Sandy Plains Road.~~

~~MOTION: Motion by Lee, second by Goreham, as part of the Consent Agenda, to approve rezoning to the R-15 zoning district subject to:~~

- ~~• site plan received by the Zoning Division December 1, 2005, with the District Commissioner approving minor modifications (copy attached and made a part of these minutes)~~
- ~~• Water and Sewer Division comments and recommendations~~
- ~~• Stormwater Management Division comments and recommendations~~
- ~~• Cobb DOT comments and recommendations~~

~~VOTE: ADOPTED unanimously~~

Z-20 SURINDER TUTEJA (Holbrook Investment Company, LP, owner) requesting Rezoning from GC to NRC for the purpose of Retail in Land Lot 549 of the 19th District. Located at the southeast intersection of Powder Springs Road and Milford Church Road.

MOTION: Motion by Lee, second by Goreham, as part of the Consent Agenda, to approve rezoning to the NRC zoning district subject to:

- site plan received by the Zoning Division December 2, 2005, with the District Commissioner approving minor modifications (copy attached and made a part of these minutes)
 - letter of agreeable stipulations from Mr. Parks Huff dated February 7, 2006 (copy attached and made a part of these minutes)
 - District Commissioner to approve the building architecture
 - Developer to install a 10-foot landscape strip along both road frontages
 - Fire Department comments
 - Water and Sewer Division comments and recommendations
 - Stormwater Management Division comments and recommendations
-

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Z-20 SURINDER TUTEJA (Continued)

- Cobb DOT comments and recommendations
- owner/developer to enter into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of system improvements to mitigate traffic concerns

VOTE: ADOPTED unanimously

Land Use Permits:

LUP-1 CHARLES SMITH (Jeffrey C. Smith and Julian W. Smith, owners) requesting a **Land Use Permit (renewal)** for the purpose of a Fruit Stand in Land Lot 1054 of the 19th District. Located on the northeasterly side of Austell Powder Springs Road, south of McKay Road (4509 Austell Powder Springs Road).

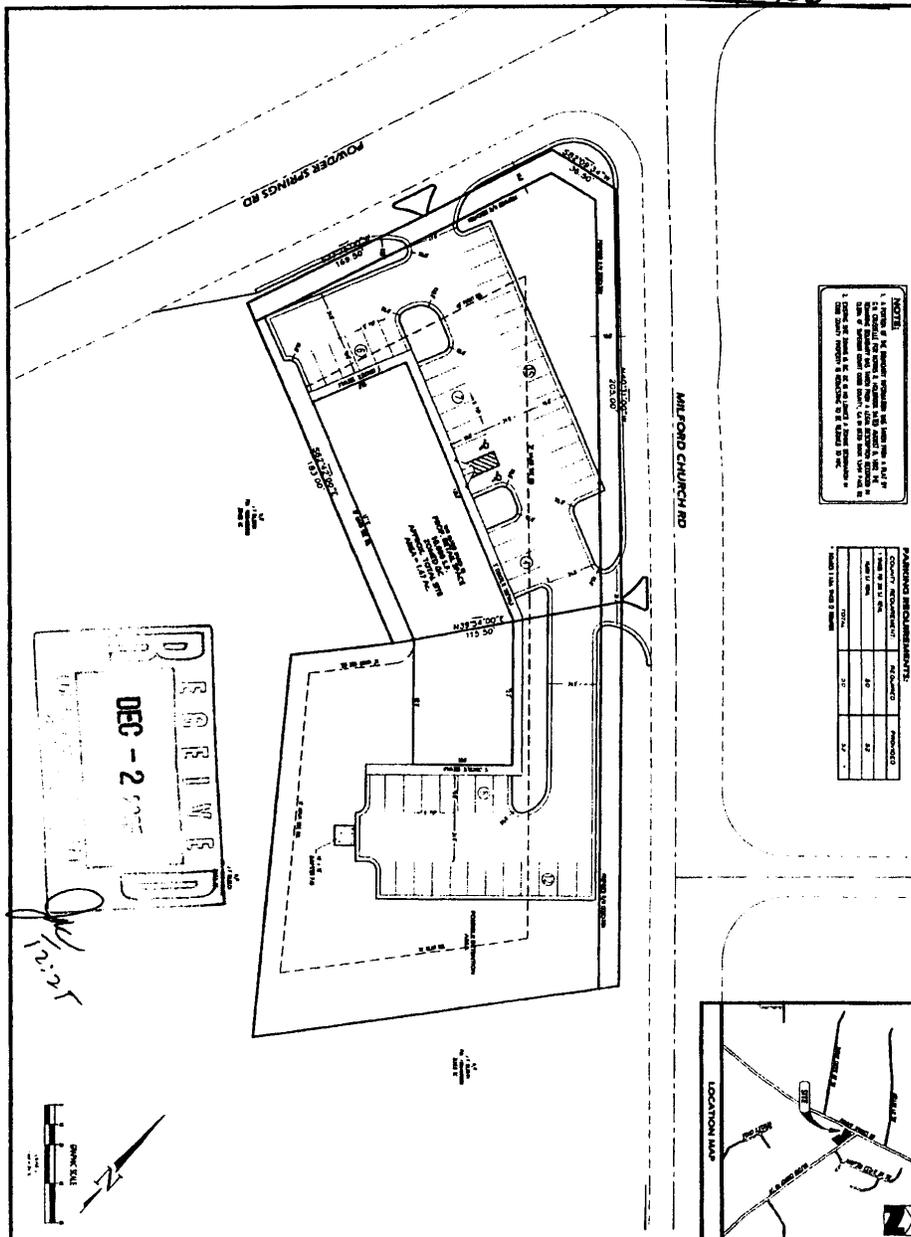
MOTION: Motion by Lee, second by Goreham, as part of the Consent Agenda, to **approve L and Use Permit for twenty-four (24) months** subject to:

- fruit stand to be maintained at the side of the primary structure
- off-street parking and turn around space to be provided to the side and rear of the existing structures
- business activity limited to spring and summer months
- existing sign to remain the same as originally approved

VOTE: ADOPTED unanimously

Min. Bk. 39 Petition No. Z-20
 Doc. Type Site Plan

Meeting Date 2/2/06



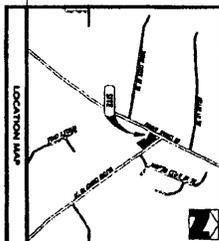
REZONING
DEC - 2005

12.27

NOTES:
 1. ALL DISTANCES ARE TO BE MEASURED FROM THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.
 2. ALL DISTANCES ARE TO BE MEASURED TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.
 3. ALL DISTANCES ARE TO BE MEASURED TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.

PAYMENT SCHEDULE:

NO.	DATE	AMOUNT
1	12/2/05	2000
2	12/2/05	2000
3	12/2/05	2000
4	12/2/05	2000
5	12/2/05	2000
6	12/2/05	2000
7	12/2/05	2000
8	12/2/05	2000
9	12/2/05	2000
10	12/2/05	2000



	11-22-05 05-059 05-059	REZONING PLAN SHEET TITLE	POWDER SPRINGS RETAIL CENTER LL 549, 1996 DISTRICT, PARCEL 6.5, 7 COBB COUNTY, GEORGIA	EVANS MILLER ENGINEERING, INC Civil Engineering / Site Planning / Land Development Services 2274 Aralco Drive, Ste. C - Lawrenceville, Georgia 30043 PH: 678.968.2300 FAX: 678.976.7766 evansmiller@evansmiller.com		Date: _____ Description: _____ Drawn by: _____ Checked by: _____
	SHEET C1	JME JME JME	PROJECT	<input type="checkbox"/> Not Related For Construction <input type="checkbox"/> Related For Construction	STAMP	REVISION

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

Min. Bk. 39 Petition No. Z-20
Doc. Type Letter of Agreeable
Stipulations
Meeting Date 2/21/06

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI*

OF COUNSEL
DAVID P. HARTIN

February 7, 2006

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

WWW.SAMSLARKINHUFF.COM

*ALSO LICENSED TO PRACTICE
IN ALABAMA

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
191 Lawrence Street, Suite 300
Marietta, Georgia 30060-1661

Re: Rezoning application of Surinder Tuteja, regarding a 1.5 acre tract for
the purpose of a retail center in Land Lot 549 of the 19th District
(Z20)

Dear John:

I represent the applicant in the above styled case. He is seeking a rezoning to construct a retail center at the intersection of Powder Springs Road and Milford Church Road. The proposed use is appropriate based upon the properties inclusion in an activity center as defined by the county's comprehensive plan. Following is a list of conditions, my client is agreeable to becoming a condition on the grant of the rezoning.

1. The proposed retail center shall be 3 sided brick with the rear being split block painted an earth tone. The final architecture shall be approved by the district commissioner.
2. There shall be no advertising vehicles parked in the parking lot. All signage will comply with the county's sign ordinance.
3. The retail center shall not allow tattoo parlors, body piercing shops, check cashing shops or billiard halls.
4. There shall be no second hand or wholesale sales on the subject property.
5. The applicant will comply with the Department of Transportation's recommendations regarding access.

Petition No. Z-20
Meeting Date 2/21/06
Continued

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
Page 2
February 1, 2006

6. The applicant will comply with the requests of the Stormwater Management Division relating to detention and stormwater runoff.
7. There shall be no auto related business.
8. There shall be no assembly halls.

Very truly yours,

SAMS, LARKIN & HUFF



Parks F. Huff
phuff@samslarkinhuff.com

PFH/brl

cc: Members, Cobb County Board of Commissioners – VIA Hand Delivery
Members, Cobb County Planning Commission – VIA Hand Delivery
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery
Ms. Gail K. Huff, Assistant County Clerk – VIA Hand Delivery
Ms. Sandra Richardson, Deputy County Clerk- VIA Hand Delivery
Surinder Tuteja

APPLICANT: Surinder Tuteja

PETITION NO.: Z-20

PRESENT ZONING: GC

PETITION FOR: NRC

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson

Land Use Plan Recommendation: Neighborhood Activity Center

Proposed Number of Buildings: 1 Total Square Footage of Development: 10,000

F.A.R. 6,666 Square Footage/Acre

Parking Spaces Required: 50 Parking Spaces Provided: 52

The applicant is requesting the NRC zoning district to develop a small shopping center. The proposed building would be one-story with a brick and stucco facade. The building would be leased to a mixture of retail, office and restaurant uses.

Historic Preservation: After reviewing various county resources including historic and archeological resource surveys, documented Civil War trench maps, and historic aerial maps, staff finds no known historic properties affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

FIRE COMMENTS:

The applicant is responsible to ensure all Cobb County Fire and Emergency Services Code requirements are met related to this project. Plans will need to be submitted to the Cobb County Fire Marshall's Office, prior to any permits being issued.

Standard comments:

1. Provide 24-hour emergency phone number (offset in bold print on all sheets).
2. Provide access for Fire and Police Department through Cobb County. If access is outside the boundaries of Cobb County, then an intergovernmental agreement would be required prior to any permitting.
3. Fire apparatus access road shall extend to within 150-feet of all portions of the facility or any portion of the exterior wall of the first floor IFC 503.1 2003 Edition. **All access roads shall have an all weather driving surface capable of supporting 75,000 pounds with an unobstructed width of not less than 20-feet, 25-foot inside turning radius, 50-foot outside turning radius and unobstructed vertical clearance of not less than 13-feet 6 inches.** Dead-end access roads in excess of 150-feet shall be provided with a turn-around IFC 503.2.5 2003 Edition. Cul-de-sac with an island: minimum 60-foot radius to outside curb, measured to inside of curb. Minimum lane width = 24-feet. Residential cul-de-sac without island: 38-foot outside radius. Commercial cul-de-sac to have a 60-foot paved radius. Hammerhead turn-around: total of 110-feet needed (45-feet + 20-feet wide roadway + 45-feet).

Additional Comments:

APPLICANT Surinder Tuteja

PETITION NO. Z-020

PRESENT ZONING GC

PETITION FOR NRC

NOTE: Comments reflect only what facilities were in existence at the time of this review.

WATER COMMENTS:

Available at Development? Yes No
Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s): 12" DI / SE side Powder Springs Rd

Additional Comments: Master meter to be at Powder Springs Rd ROW

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS:

In Drainage Basin? Yes No
At Development? Yes No

Approximate Distance to Nearest Sewer: 130' E in Hampton Estates Dr

Estimated Waste Generation (in G.P.D.): **A D F** 1000 **Peak** 2500

Treatment Plant: S Cobb

Plant Capacity Available? Yes No
Line Capacity Available? Yes No
Projected Plant Availability: 0 - 5 year 5 - 10 years over 10 years
Dry Sewers Required? Yes No
Off-site Easements Required? Yes* No
Flow Test Required? Yes No
Letter of Allocation issued? Yes No
Septic Tank Recommended by this Department? Yes No
Subject to Health Department Approval? Yes No

* If off-site easements are required, Developer must submit easements to CCWS for review / approval as to form and stipulations prior to the execution of easement(s) by the property owner(s). All easement acquisitions are the responsibility of the Developer.

Additional Comments:

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

APPLICANT: Sunrinder Tuteja

PETITION NO.: Z-20

PRESENT ZONING: GC

PETITION FOR: NRC

DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

Tributary to

DRAINAGE BASIN: Olley Creek FLOOD HAZARD INFO: None

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: YES NO POSSIBLY, NOT VERIFIED

Location: _____

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: YES NO POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area - County review (_____ undisturbed buffer each side).
- Georgia Erosion-Sediment Control Law and County Ordinance - County Review/State Review.
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: 50', 75', 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream _____
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream stormdrainage system.

APPLICANT: Surinder Tuteja

PETITION NO.: Z-20

PRESENT ZONING: R-30

PETITION FOR: NRC

DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any spring activity uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design, reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown.
- Copy of survey is not current - Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS/SUGGESTION

1. Tract terrain is controlled by North-South ridge through middle of West half. Ground slopes are gentle/estimated under 10%. Tract is 80% wooded. There is no downstream water course into which detention may discharge, therefore, developer must sewer and casement to the nearby ravine.
2. The layout is very inefficient and pavement intense. Eliminating the single sided parking near Powder Springs road and the long drive to the parking in rear (actually two buildings might workout better) would help. At Plan Review, parking layout must be revised to be more efficient.

APPLICANT: Surinder Tuteja

PETITION NO.: Z-20

PRESENT ZONING: GC

PETITION FOR: NRC

TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Powder Springs Rd	23640	Arterial	45 mph	Cobb County	100'
Milford Church Rd	9411	Major Collector	35 mph	Cobb County	80'

*Based on 2004 traffic counting data taken by GADOT. (Powder Springs Road)
Based on 2003 traffic counting data taken by GADOT. (Milford Church Road)*

COMMENTS AND OBSERVATIONS

Powder Springs is classified as an Arterial and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

Milford Church Road is classified as a Major Collector and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

Shift the right-in/right-out driveway on Powder Springs Road further from the intersection.

Construct an auxiliary/right-turn lane along the frontage of Powder Springs Road.

Install sidewalk, curb and gutter along both road frontages.

Shift driveway on Milford Church Road to align with the subdivision road.

As necessitated by this development for egress from Milford Church Road, a minimum 150' deceleration lane will be required.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the east side of Powder Springs Road, a minimum of 50' from the roadway centerline and b) donation of right-of-way on the south side of Milford Church Road, a minimum of 40' from the roadway centerline

Recommend shifting the right-in/right-out driveway on Powder Springs Road further from the intersection and constructing an auxiliary/right-turn lane along the frontage.

Recommend installing sidewalk, curb and gutter along both road frontages.

Recommend aligning the driveway on Milford Church Road with the opposing subdivision street.

Recommend a minimum 150' deceleration along Milford Church Road.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.