



**APPLICANT:** Rahim Jasani

**PHONE #:** (404) 966-0137 **EMAIL:** Rjasani55@gmail.com

**REPRESENTATIVE:** Garvis L. Sams, Jr.

**PHONE #:** (770) 422-7016 **EMAIL:** gsams@slhb-law.com

**TITLEHOLDER:** Holbrook Investment Company, LP

**PROPERTY LOCATION:** southern corner of Powder Springs Road and Milford Church Road

**ACCESS TO PROPERTY:** Powder Springs Road and Milford Church Road

**PHYSICAL CHARACTERISTICS TO SITE:** wooded, undeveloped

**CONTIGUOUS ZONING/DEVELOPMENT**

- NORTH:** NRC/ Unopened retail center
- SOUTH:** GC/ Residence on commercial land
- EAST:** GC/ Residence on commercial land
- WEST:** NRC/ Residence on commercial land

**PETITION NO:** Z-85

**HEARING DATE (PC):** 12-05-17

**HEARING DATE (BOC):** 12-19-17

**PRESENT ZONING:** GC, NRC

**PROPOSED ZONING:** NRC

**PROPOSED USE:** convenience Store with fuel sales

**SIZE OF TRACT:** 1.5 acres

**DISTRICT:** 19

**LAND LOT(S):** 549

**PARCEL(S):** 4,5,7

**TAXES: PAID** X **DUE** \_\_\_\_\_

**COMMISSION DISTRICT:** 4

*Adjacent Future Land Use:*  
 Northeast: NAC and MDR  
 Southeast: NAC  
 Southwest: NAC  
 Northwest: NAC

**OPPOSITION:** NO. OPPOSED **PETITION NO:** \_\_\_\_\_ **SPOKESMAN** \_\_\_\_\_

**PLANNING COMMISSION RECOMMENDATION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **VOTE** \_\_\_\_\_

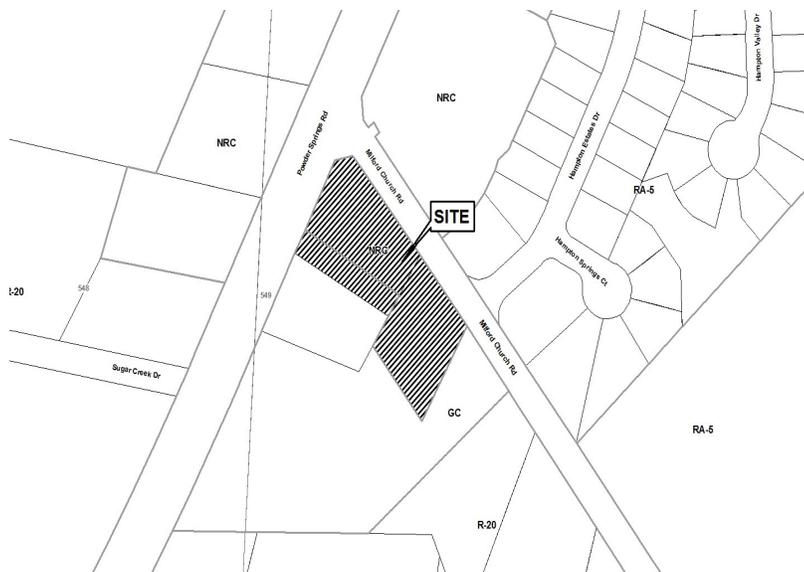
**BOARD OF COMMISSIONERS DECISION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

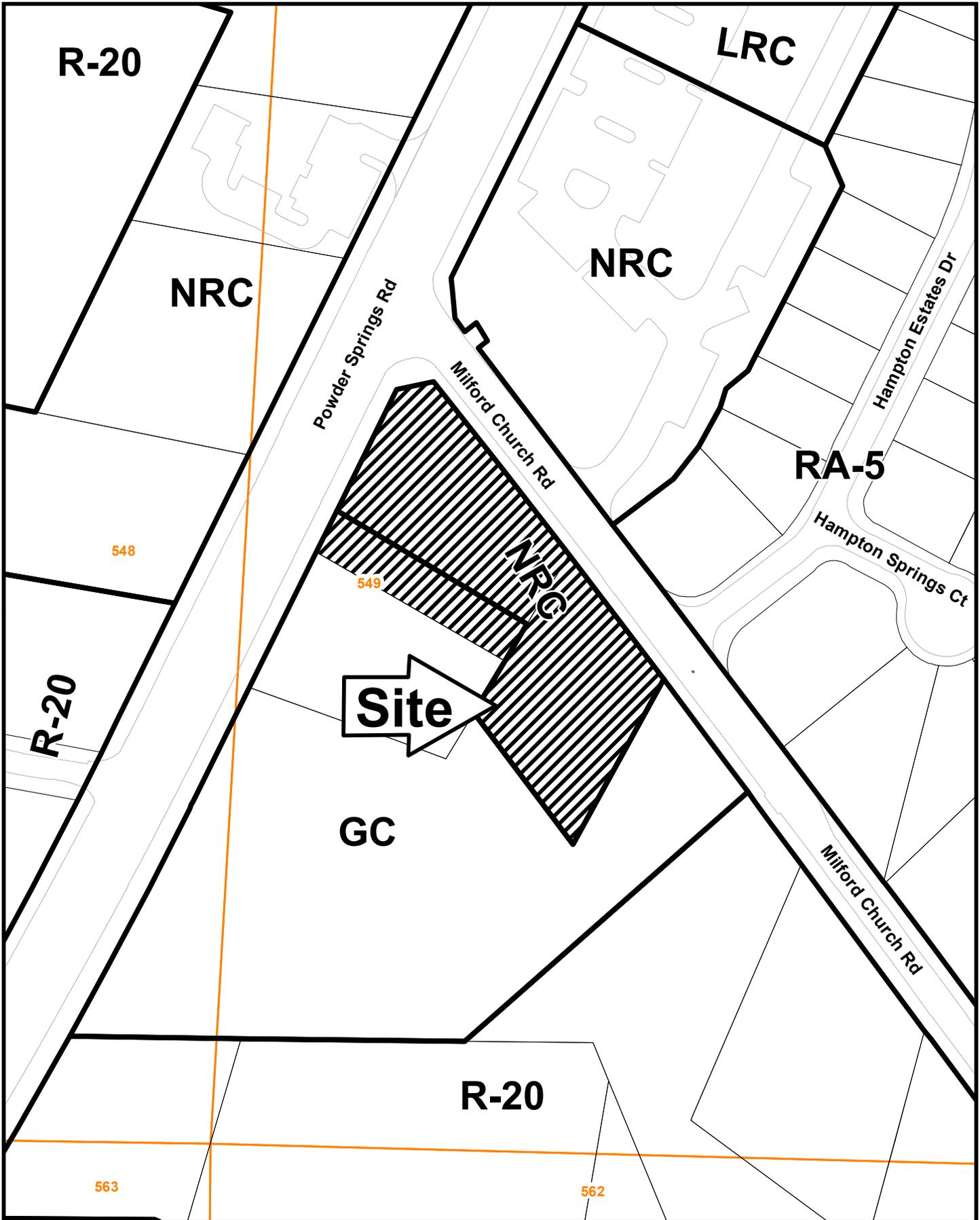
**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **VOTE** \_\_\_\_\_

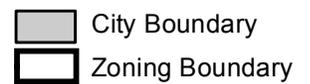
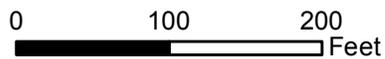
**STIPULATIONS:**



# Z-85 2017-GIS



This map is provided for display and planning purposes only. It is not meant to be a legal description.



**APPLICANT:** Rahim Jasani

**PETITION NO.:** Z-85

**PRESENT ZONING:** GC, NRC

**PETITION FOR:** NRC

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**ZONING COMMENTS:**

**Staff Member Responsible:** Terry Martin, MPA

**Land Use Plan Recommendation:** Neighborhood Activity Center (NAC)

**Proposed Number of Buildings:** 1      **Total Square Footage of Development:** 5,550 sq. ft.

**F.A.R.:** 0.08      **Square Footage/Acre:** 3,700 sq. ft.

**Parking Spaces Required:** 17      **Parking Spaces Provided:** 19

The applicant is requesting a rezoning of the subject site in order to develop a 4,200 square-foot convenience store with fuel sales and an adjoining 1,350 square-foot restaurant. The building’s architecture is proposed to include brick, stone, and masonry components. The request is to rezone the site from its existing Neighborhood Retail Commercial (NRC) to the same NRC. The application is necessary to modify the numerous stipulations placed upon the property by the previous case Z-20 of 2006.

If approved, the following variance will be necessary:

1. Waive the rear setback for the dumpster enclosure from the required 30 feet to approximately 15 feet.

**Cemetery Preservation:** No comment.

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**APPLICANT:** Rahim Jasani

**PETITION NO.:** Z-85

**PRESENT ZONING:** GC, NRC

**PETITION FOR:** NRC

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**SITE PLAN REVIEW SECTION COMMENTS:**

The proposed parking area does not provide compliance with the Cobb County Tree Ordinance. Additional parking lot peninsulas will be required. The exact number and configuration will be determined during plan review.

APPLICANT: Rahim Jasani

PETITION NO.: Z-85

PRESENT ZONING: GC, NRC

PETITION FOR: NRC

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**SCHOOL COMMENTS:**

<u>Name of School</u>	<u>Enrollment</u>	<u>Capacity Status</u>	<u>Number of Portable Classrooms</u>
NOT SUBMITTED	_____	_____	_____
<b>Elementary</b> NOT SUBMITTED	_____	_____	_____
<b>Middle</b> NOT SUBMITTED	_____	_____	_____

**High**

- School attendance zones are subject to revision at any time.

**Additional Comments:** Approval of this petition will not have an impact on the enrollment.

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**APPLICANT:** Rahim Jasani

**PETITION NO.:** Z-85

**PRESENT ZONING:** GC, NRC

**PETITION FOR:** NRC

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**FIRE COMMENTS:**

NO COMMENTS: After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

**APPLICANT: Rahim Jansani**  
**PRESENT ZONING: GC & NRC**

**PETITION NO.: Z-85**  
**PETITION FOR: NRC**

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**PLANNING COMMENTS:**

The applicant is requesting a rezoning to allow the site to be used for a convenience store with fuel sales. The 1.5 acre site is located on the southern corner of Powder Springs Road and Milford Church Road.

HB-489 Intergovernmental Agreement Zoning Amendment Notification:

Is the application site within one half (1/2) mile of a city boundary?  Yes  No  
If yes, has the city of \_\_\_\_\_ been notified?  Yes  No / N/A

Comprehensive Plan

This application pertains to a site designated as Neighborhood Activity Center (NAC) future land use category. The purpose of the NAC category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail and grocery stores.

Specific Area Policy Guidelines:

There are no specific policy guidelines for this area in the Comprehensive Plan.

Adjacent Future Land Use:

Northeast: NAC and Medium Density Residential (MDR)  
Southeast: NAC  
Southwest: NAC  
Northwest: NAC

Master Plan/Corridor Study

The property is not located within the boundary of a Plan or Corridor Study

Historic Preservation

After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Design Guidelines

Is the parcel in an area with Design Guidelines?  Yes  No  
If yes, design guidelines area \_\_\_\_\_  
Does the current site plan comply with the design requirements?

Incentive Zones

Is the property within an Opportunity Zone?  Yes  No  
The Opportunity Zone is an incentive that provides \$3,500 tax credit per job in eligible areas if two or more jobs are being created. This incentive is available for new or existing businesses.

Is the property within an Enterprise Zone?  Yes  No  
The Smyrna-Osborne Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investments.

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program?  Yes  No

**APPLICANT: Rahim Jansani**

**PRESENT ZONING: GC & NRC**

**PETITION NO.: Z-85**

**PETITION FOR: NRC**

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**PLANNING COMMENTS:**

CONT.

The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in ad valorem property taxes for qualifying redevelopment in eligible areas.

For more information on incentives, please call the Community Development Agency, Planning Division at 770.528.2018 or find information online at [www.cobbcounty.org/planning](http://www.cobbcounty.org/planning).

*Special Districts*

Is this property within the Cumberland Special District #1 (hotel/motel fee)?

Yes       No

Is this property within the Cumberland Special District #2 (ad valorem tax)?

Yes       No

Is this property within the Six Flags Special Service District?

Yes       No

Is the property within the:

Dobbins Airfield Safety Zone?

CZ (Clear Zone)

APZ I (Accident Potential Zone I)

APZ II (Accident Potential Zone II)

Noise Zone

Bird / Wildlife Air Strike Hazard (BASH) area

APPLICANT Rahim Jasani

PETITION NO. Z-085

PRESENT ZONING GC, NRC

PETITION FOR NRC

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**WATER COMMENTS:**

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

Available at Development:  Yes  No

Fire Flow Test Required:  Yes  No

Size / Location of Existing Water Main(s): 8" DI / E side of Milford Church Road

Additional Comments:

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.

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**SEWER COMMENTS:**

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

In Drainage Basin:  Yes  No

At Development:  Yes  No

Approximate Distance to Nearest Sewer: Milford Church Rd ROW

Estimated Waste Generation (in G.P.D.): A D F= 222 Peak= 555

Treatment Plant: South Cobb

Plant Capacity:  Available  Not Available

Line Capacity:  Available  Not Available

Projected Plant Availability:  0 - 5 years  5 - 10 years  over 10 years

Dry Sewers Required:  Yes  No

Off-site Easements Required:  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 easements by the property owners. All easement acquisitions are the responsibility of the Developer

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

Additional wastewater generation estimates may be slightly higher, depending on restaurant specifics  
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 offsite easements, dedication of on and/or offsite 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.

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PETITION FOR: NRC

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**STORMWATER MANAGEMENT COMMENTS**

FLOOD HAZARD:  YES  NO  POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Unnamed Trib to Olley Creek FLOOD HAZARD INFO: Zone X

- 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 CONDITIONS

- 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 receiving systems.

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PRESENT ZONING: GC, NRC

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**STORMWATER MANAGEMENT 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

1. This site is located at the southeast intersection of Powder Springs and Milford Church Roads. The site is undeveloped and mostly wooded with average slopes of less than 10%.
2. Stormwater management will be provided with an underground facility located beneath the parking lot. The site discharge must be tied directly to the existing stormwater infrastructure within the Milford Church Road R/W.
3. Fueling centers are considered water quality “hot-spots” and require additional best management practices to prevent contamination of stormwater runoff. An oil/water separator will be required to pre-treat runoff from the fueling bay area prior to discharge into the detention system.

*\*Comments revised 11/17/17*

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**PETITION FOR:** NRC

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**TRANSPORTATION COMMENTS:**

ROADWAY	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Powder Springs Road	Arterial	45 mph	Cobb County	100'
Milford Church Road	Major Collector	35 mph	Cobb County	80'

ROADWAY	LOCATION	AVERAGE DAILY TRIPS	LEVEL OF SERVICE
Powder Springs Road	South of Pair Road	21,200	D
Milford Church Road	West of Farmington Drive	6,520	C

*Based on 2016 AADT counting data taken by GDOT, as published on their website, for Powder Springs Road.*

*Based on 2013 traffic counting data taken by Cobb County DOT for Milford Church Road.*

*Planning Level of Service based on available Average Daily Trips using GRTA guideline thresholds. Classification thresholds for LOS A and LOS B are not available for local roads from this data source.*

*LOS C or D is acceptable based on GDOT Design Policy Manual criteria.*

**COMMENTS AND OBSERVATIONS**

Powder Springs Road is classified as an arterial and according to the available information the existing right-of-way does 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.

**RECOMMENDATIONS**

Recommend applicant consider entering into a development agreement pursuant to 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 south side of Milford Church Road, a minimum of 40' from the roadway centerline.

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

Recommend a deceleration lane for both entrances on Powder Springs Road and Milford Church Road.

Recommend curb, gutter, and sidewalk along the Milford Church Road frontage.

## STAFF RECOMMENDATIONS

### **Z-85 RAHIM JASANI**

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The applicant's proposal would be consistent with other uses in the area, which consists of a mixture of residential, institutional, and commercial uses.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse effect on the usability of adjacent or nearby property. Already previously rezoned for commercial use, the present request is to allow development of a convenience store with fuel sales and restaurant.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates the property to be within the Neighborhood Activity Center (NAC) future land use category. The applicant's request would satisfy the goals of this category to provide uses that serve neighborhood residents and businesses.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. The applicant's proposal is consistent with the *Cobb County Comprehensive Plan*, which delineates this property to be within the NAC future land use category.

Based on the above analysis, Staff recommends **APPROVAL** subject to the following conditions:

1. Site plan received by the Zoning Division on October 5, 2017 with the District Commissioner approving minor modifications;
2. District Commissioner to approve the building architecture;
3. District Commissioner to approve landscape plan to include full landscaping of both road frontages;
4. Fire Department comments and recommendations;
5. Water and Sewer Division comments and recommendations;
6. Stormwater Management Division comments and recommendations;
7. Department of Transportation comments and recommendations; and
8. 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.

**The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.**



Application No. Z- 85

PC: Hearing: Dec. 5, 2017  
BOC Hearing: Dec. 19, 2017

## Summary of Intent for Rezoning\*

.....  
**Part 1. Residential Rezoning Information (attach additional information if needed)**

- a) Proposed unit square-footage(s): N/A
- b) Proposed building architecture: \_\_\_\_\_
- c) List all requested variances: \_\_\_\_\_

.....  
**Part 2. Non-residential Rezoning Information (attach additional information if needed)**

- a) Proposed use(s): Convenience Store with Fuel Sales
- b) Proposed building architecture: Brick, stone and masonry components.
- c) Proposed hours/days of operation: To be determined.
- d) List all requested variances: None identified at this time.

.....  
**Part 3. Other Pertinent Information (List or attach additional information if needed)**

The subject property was rezoned to the NRC zoning district for a Retail Center in February 2006 (No. Z-20) subject to numerous conditions, including that the development of the property is subject to the submitted site plan. Although the 0.20 acre tract (parcel no. 19054900050) was included in the rezoning application, eventually the Zoning Map was not changed and that tract is still shown as GC.

The subject property is centrally located within a long established NAC node that encompasses all 4 quadrants of this intersection.

.....  
**Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?**

**(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located).**

None known at this time.

\* Applicant specifically reserves the right to amend any information set forth in this Summary of Intent for Rezoning, or any other portion of the Application for Rezoning at any time during the rezoning process.



**ZONING IMPACT STATEMENT**  
**FOR THE REZONING APPLICATION**  
**OF RAHIM JASANI**

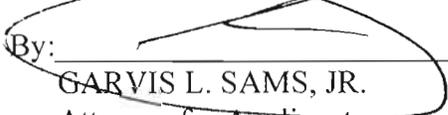
COMES NOW, RAHIM JASANI, and pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along sections of the Milford Church Road and Powder Springs Road Corridors. The subject property is zoned GC and Conditional NRC and a preponderance of properties at this intersection, and along Powder Springs Road (designated as an Arterial) and Milford Church Road (Major Collector) are zoned NRC and GC.
  
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties and will permit a use that is suitable in view of the proposed and/or existing uses and development of adjacent and nearby properties.
  
- C. The subject property to be affected by the zoning proposal has no reasonable economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility. The existing GC & Conditional NRC zoning classifications are a significant economic detriment to the owner of the subject property.
  
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

- E. The property is located within a Neighborhood Activity Center (“NAC”) under and pursuant to Cobb County’s Future Land Use Map and Comprehensive Land Use Plan and the zoning proposal is adjacent to predominantly commercially zoned properties.
  
- F. There is no substantial relationship between the existing zoning classifications of GC & Conditional NRC which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development along this section of the Milford Church Road and Powder Springs Road Corridors, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 5<sup>th</sup> day of Oct, 2017.

SAMS, LARKIN, ~~HUFF & BALLI~~, LLP

By:   
GARVIS L. SAMS, JR.  
Attorney for Applicant  
Ga. Bar No. 623950