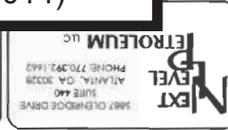




#	DATE	REVISIONS



LOCATION: 4661 AUSTELL ROAD SW MARIETTA, GA 30008	CHECKED BY:
PARCEL NO.: 13084900180	DRAWN BY:
APPROXIMATE COBB COUNTY	

SITE PLAN	DATE	OF SHEETS
JOB NO. 13-164		
SHEET C01		

SITE ORDINANCE
(COMMUNITY RETAIL, COMMERCIAL)

CURRENT ZONING	ORC
MINIMUM LOT SIZE	20,000 SF
MINIMUM LOT WIDTH AT FRONT SETBACK LINE	75 LF
MINIMUM PUBLIC ROAD FRONTAGE	50 LF
FRONT SETBACK (AUSTELL ROAD)	40'
MINIMUM SIDE SETBACK (FLOOD ROAD)	25'
REAR SETBACK	20'
CANOPY SETBACK	15'
NO LANDSCAPE BUFFER REQUIRED	
NO FLOODPLAIN OR RETAINMENT REQUIREMENTS	
MINIMUM BUILDING HEIGHT	30'
PARKING REQUIRED	± SPACES + 1 SPACE PER EMPLOYEE
MINIMUM ASPHALT SURFACE	700

SITE INFORMATION
0.544 ACRES (23,480 SF)

PROPERTY SIZE	234 LF
PROPERTY FRONTAGE (AUSTELL ROAD)	249 LF
NO LANDSCAPE BUFFERS	
NO FLOODPLAIN OR RETAINMENT	
CANOPY HEIGHT	15'
PARKING SPACES	79
IMPERVIOUS SURFACE	912

EXISTING SIGN FOOTAGE*

C-SIDE SIGN FOOTAGE	202 SF
CANOPY FACADE FOOTAGE	1,150 SF
CANOPY LETTERS AND SIGNAGE FOOTAGE	84 SF
TOTAL EXISTING SIGN FOOTAGE	1,436 SF

PROPOSED SIGN FOOTAGE*

C-SIDE SIGN FOOTAGE	308 SF
CANOPY FACADE FOOTAGE	1,000 SF
CANOPY LETTERS AND SIGNAGE FOOTAGE	105 SF
TOTAL PROPOSED SIGN FOOTAGE	1,413 SF

THE MAIN BUILDING, 3,142 SF, IS A CONVENIENCE STORE.
THE BUILDING ON THE SIDE, 714 SF, IS A DRIVE-THRU BEVERAGE STORE.
SALES OF BEVERAGES (BEER, WINE, LIQUOR) EXIST ON SITE.
DRIVE-THRU SERVICES EXIST ON SITE.

NO UTILITY EASEMENTS HAVE BEEN RECORDED ON THE PROPERTY.
NO STREAM BUFFERS.

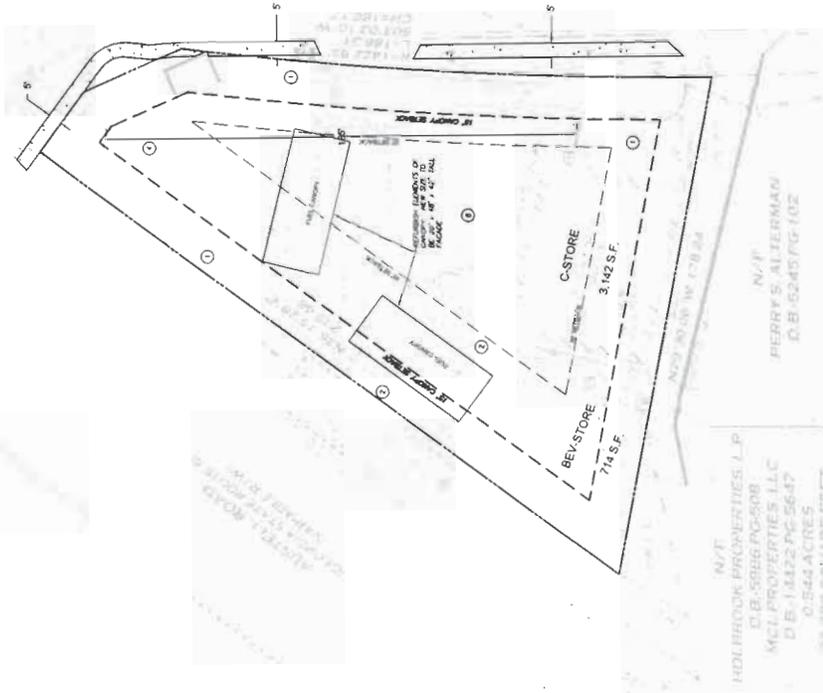
THERE IS NO STORM WATER DETENTION, WATER QUALITY, OIL/GRIIT SEPARATOR OR CHANNEL PROTECTION ON SITE.

OUTSIDE ICE STORAGE IS LOCATED AT THE BEVERAGE STORE.
LANDSCAPE ISLANDS AND VEGETATION WILL REMAIN THE SAME.
EXISTING FUEL CANOPY SIGNAGE EXTENDS ABOVE CANOPY ROOF.
PROPOSED FUEL CANOPY SIGNAGE DOES NOT EXTEND ABOVE CANOPY ROOF.

PROPOSED FUEL CANOPY LETTER SIGN IS ILLUMINATED.

VARIANCE

ITEM	CODE	ACQUIRED
FRONT SETBACK (AUSTELL ROAD)	SECTION 134-218 (4)	40'
MINIMUM SIDE SETBACK (FLOOD ROAD)	SECTION 134-218 (4)	25'
REAR SETBACK	SECTION 134-218 (4)	20'
CANOPY SETBACK	SECTION 134-266	15'
MINIMUM IMPERVIOUS SURFACE	SECTION 134-218 (13-1)	700
SIGNAGE SQUARE FOOTAGE	SECTION 134-314 (6)	65 SF
MONUMENT SIGN DISTANCE	SECTION 134-313 (3)	200 FT
STORAGE SQUARE FOOTAGE	SECTION 134-310 (6)	30 SF



REVISED

COBB COUNTY GEORGIA
FILED IN OFFICE
2014 JAN -3 PM 4: 26
COBB COUNTY ZONING DIVISION

N/T
HOLLIBROOK PROPERTIES, L.P.
D.B. 5985 PG 598
MCL PROPERTIES, LLC
D.B. 1-1422 PG 5647
0.544 ACRES
23,480 SQUARE FEET

N/T
PERRIS, ALTERNAN
D.B. 5245 PG 102

APPLICANT: Holbrook Properties, LP/MCL Properties, LLC

PETITION NO: Z-8

REPRESENTATIVE: Lois D. Holbrook and Marsha H. Mann

HEARING DATE (PC): 02-04-14

HEARING DATE (BOC): 02-18-14

TITLEHOLDER: Lois D. Holbrook and MCL Properties, LLC

PRESENT ZONING: PSC

PROPERTY LOCATION: Southwest intersection of Austell Road and

PROPOSED ZONING: CRC

Floyd Road

PROPOSED USE: Existing Service Station/

(3661 Austell Road)

Convenience Store

ACCESS TO PROPERTY: Austell Road and Floyd Road

SIZE OF TRACT: 0.544 acre

DISTRICT: 19

PHYSICAL CHARACTERISTICS TO SITE: Existing convenience

LAND LOT(S): 848

store with fuel sales and canopies, and beverage store

PARCEL(S): 18, 26

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** GC/Commercial Developments
- SOUTH:** PSC and GC/Commercial Uses
- EAST:** GC/Undeveloped
- WEST:** GC and NS/Commercial Uses

OPPOSITION: NO. OPPOSED **PETITION NO:** _____ **SPOKESMAN** _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

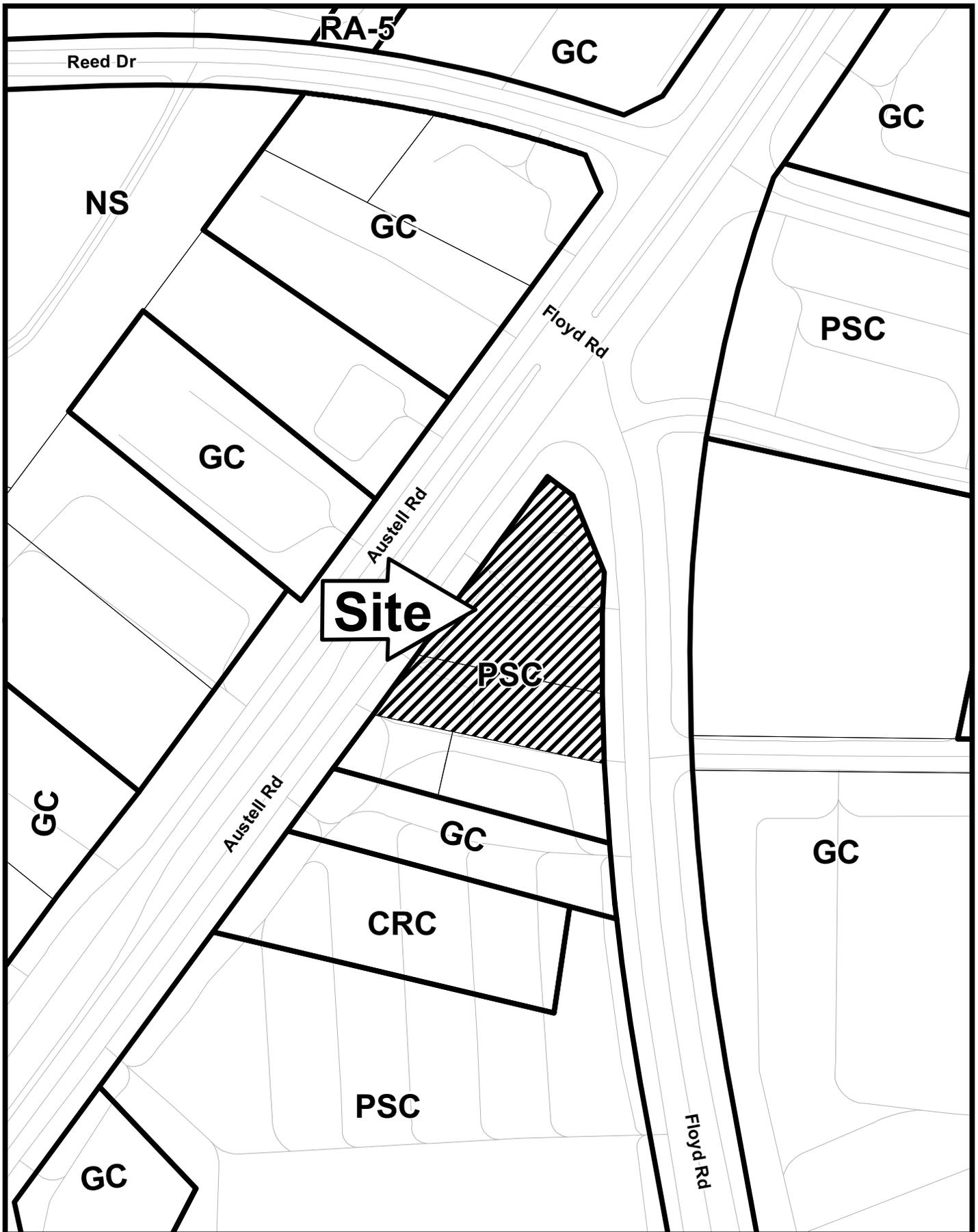
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

STIPULATIONS:



Z-8



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Holbrook Properties, LP/MCL Properties, LLC

PETITION NO.: Z-8

PRESENT ZONING: PSC

PETITION FOR: CRC

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: CAC (Community Activity Center)

Proposed Number of Buildings: 2 (Existing) **Total Square Footage of Development:** 3,804

F.A.R.: 0.16 **Square Footage/Acre:** 6,992

Parking Spaces Required: Convenience Store 5 and 1/employee
Retail 1/200 square feet of net floorspace

Parking Spaces Provided: 19

Applicant is requesting the Community Retail Commercial (CRC) zoning category for the purpose of bringing the existing property into conformity with the land use plan in order to allow the continuance of the existing businesses and the installation of new fuel island canopies and signage. The property is not allowed to make the changes that are requested as part of Citgo’s corporate update of the fuel island canopies.

Applicant is also requesting the following contemporaneous variances:

1. Waive the setback along Austell Road from the required 50 feet to 15 feet for the proposed canopy;
2. Waive the setback along Floyd Road from the existing 25 feet to 15 feet for the proposed canopy;
3. Waive the setback for the rear from the required 30 feet to 1.83 feet (existing);
4. Waive the allowable impervious coverage from 70% to 91% (existing);
5. Allow convenience store sign footage of 328 square feet;
6. Allow canopy façade footage of 1,088 square feet;
7. Allow two monument signs at 65 square feet each; and
8. Allow the beverage store sign square footage of 131 square feet (existing).

Cemetery Preservation: No comment.

FIRE 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: Holbrook Properties, LP/MCL Properties, LLC

PETITION NO.: Z-8

PRESENT ZONING: PSC

PETITION FOR: CRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from PSC and CRC for the purpose of existing service station/ convenience store. The 0.544 acre site is located at the southwest intersection of Austell Road and Floyd Road.

Comprehensive Plan

The parcel is within a Community Activity Center (CAC) future land use category, with a PSC and GC zoning designations. The purpose of the CAC category is for areas that can meet the immediate needs of several neighborhoods or communities. Typical land uses for these areas include low to mid-rise office buildings and department stores.

Master Plan/Corridor Study

This parcel is located within the boundaries of the Austell Road 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 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

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.

YES indicates applicant has met the corresponding issue.

NO indicates applicant has not met the corresponding issue and/or there is not enough information provided.

N/A indicates issue is not applicable.

APPLICANT Holbook Properties, LP

PETITION NO. Z-008

PRESENT ZONING PSC

PETITION FOR CRC

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): **6" DI / E side of Austell Rd**

Additional Comments: Existing water Customer

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: 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: **In Austell Rd Right-of-Way**

Estimated Waste Generation (in G.P.D.): **A D F +0 Peak= +0**

Treatment Plant: **S Cobb**

Plant Capacity: Available Not Available

Line Capacity: Available Not Available

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

Drv 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 Existing sewer customer
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.

APPLICANT: Holbrook Properties, LP/MCL Properties, LLC

PETITION NO.: Z-8

PRESENT ZONING: PSC

PETITION FOR: CRC

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Buttermilk 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 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 receiving system.

APPLICANT: Holbrook Properties, LP/MCL Properties, LLC

PETITION NO.: Z-8

PRESENT ZONING: PSC

PETITION FOR: CRC

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. Other than replacement/reconfiguration of existing fuel canopies, no site improvements are proposed at the present time. Any future improvements or redevelopment must meet current Stormwater Management requirements.

STAFF RECOMMENDATIONS

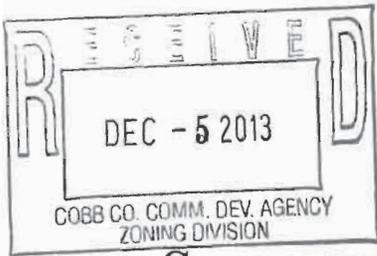
Z-8 HOLBROOK PROPERTIES, LP/MCL PROPERTIES, LLC

- 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 surrounding properties are zoned for commercial uses and the existing uses on the subject parcels have existed for many years.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. This application is an attempt to "clean up" zoning and land use issues in order to allow the existing businesses (convenience store with fuel sales and beverage store) to remain and allow the convenience store to update its fuel island canopies and related signage.
- 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 this property to be within the Community Activity Center (CAC) land use category. Under the current CAC land use category and the PSC zoning category, the owner is not allowed to make the corporate changes desired by Citgo for the canopies over the fuel island and the associated updated corporate logo and signage.
- 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 existing businesses on the subject property have operated for many years and Citgo is in the process of updating fuel island canopies and signage for its locations. The zoning and land use category combination on these parcels will not allow the proposed changes.

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

- Revised site plan received by the Zoning Division on January 3, 2014, with the District Commissioner approving minor modifications;
- Signage to meet Sign Ordinance;
- Water and Sewer Division comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Department of Transportation comments and recommendations; and
- 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 #: Z-8

PC Hearing Date: 2-4-14

BOC Hearing Date: 2-18-14

Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): _____
- b) Proposed building architecture: _____
- c) Proposed selling prices(s): _____
- d) List all requested variances: _____

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

- a) Proposed use(s): Existing service station, convenience store and separate unrelated existing package store.
- b) Proposed building architecture: _____
- c) Proposed hours/days of operation: 24 hours per day
- d) List all requested variances: NONE AT THIS TIME

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

See Documented Impact Analysis Attached.

.....
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). _____

NO

.....
Part 5. Is this application a result of a Code Enforcement action? No ; Yes _____ (If yes, attach a copy of the Notice of Violation and/or tickets to this form).

Applicant signature: _____

Date: Dec 4, 2013

Applicant name (printed): HOLBROOK / MCL Reports

DOCUMENTED IMPACT ANALYSIS

and

Other Material Required by
the Cobb County Zoning Ordinance
For



± .544 acres of land (23,680 square feet)
located at
3661 Austell Road, SW
Marietta, Georgia
Land Lot 848, 19th District

From PSC (Planned Shopping Center) to CRC (Community Retail Zoning)

to allow for the upgrading and renovation of

Submitted for

HOLBROOK PROPERTIES, L.P/MCL PROPERTIES, LLC

by:

M. Hakim Hilliard, Esquire
The Hilliard Firm, LLC
344 Woodward Avenue, SE
Atlanta, Georgia 30312
404.968.9614

INTRODUCTION

This Application seeks the Rezoning of ± .544 acres of land (23,680 square feet) located at the intersection of Austell Road and Floyd Road in Land Lot 848 of the 19th District, Cobb County, Georgia (hereinafter referred to as the “Subject Property”) from PSC (Planned Shopping Center) to CRC (Community Retail Zoning). The Subject Property consists of two parcels of land owned by Holbrook Properties, L.P. and MCL Properties, LLC, respectively. Although separately owned, the two parcels were developed together approximately 30+ years ago with a service station, two fuel pump islands, a convenience store and associated parking. In addition, two monument signs providing advertising for the business located on the Subject Property were developed in conjunction with this project, one at the northern corner of Subject Property and one closer to the southern end. In addition to the two signs, the convenience store and the two fuel pumps islands, a free standing one-story building is located on the southwest corner of the Subject Property and is developed as a package store that is unrelated to the use on the property.

The Subject Property is oddly-shaped and it appears that it was originally developed as a planned development because of its inability to satisfy several applicable development standards at the time of its initial construction. In this regard, while the Applicant has not researched the development standards that were associated with the Subject Property prior to its rezoning to PSC in the late 1970s, the unique shape, size and location of the Subject Property appear to have warranted consideration for the site for the special PSC zoning it currently enjoys.

The sole purpose of this request for rezoning is to allow for repair, replacement and repair of the canopy structures, signage and lighting located above the two fuel pump islands and to upgrade the existing monument signage on the subject property in a manner consistent with the sign plans attached to this application. The building located on the

southwest corner of the property currently operated as a package store is owned separately and will remain and no modifications are proposed at this time.

Pursuant to the requirements of the Cobb County, Georgia, the Applicant is providing notice of the filing of this application to adjacent and nearby property owners located within 1,000 feet of the Subject Property. Evidence of this notice will be delivered to the Zoning Division within the time period prescribed in the application materials.

To accommodate the proposed development, the Applicant has filed the foregoing request to rezone the Subject Property from PSC to CRC. The Applicant is available to discuss any appropriate conditions related to the subject zoning request. In the interim, the following conditions are proposed by the Applicant:

1. The Subject Property shall be rezoned to CDC and shall be developed substantially in accordance with the Site Plan filed herewith.
2. Any exterior lights shall be designed so as to minimize glare on adjoining properties.
3. Subject to the approved site plan, development of the Subject Property shall proceed in accordance with the Cobb County Code of Ordinances.

This document is submitted as a Statement of Intent with regard to this Application and as the impact analysis report as required by the Cobb County Zoning Ordinance. This document also is intended to address and substantiate the requisite responses to the state "Steinberg Act", O.C.G.A. §36-67-1 et seq.

IMPACT ANALYSIS

1.

WHETHER THE ZONING PROPOSAL WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY

Based on the proposed site plan design for the Subject Property, the proposed use is entirely consistent with and suitable for the area. The proposal improves the quality of the existing property by upgrading two fuel pump canopies that currently exist above their associated fuel pumps. The

canopies are currently in disrepair and the Applicant has been put on notice of the safety issues with the current canopies. Repairing, replacing and upgrading the canopies will improve the property overall. The associated improvements to the signage will benefit to the look and feel of the entire area.

2.

WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACEN OR NEARBY PROPERTY

The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. In this instance, the Applicant does not intend to modify the access or general outline of the existing site in any manner. As such, it is not anticipated that the proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property.

3.

WHETHER THE PROPERTY TO BE AFFECTED BY THE ZONING PROPOSAL HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONING

Because of the development restrictions associated with the subject property, it cannot be economically developed by the owners as currently zoned. Therefore, the Applicant, on behalf the owners of the tract of land at issue in this rezoning application (the “Property”), respectfully submits that the Zoning Ordinance of Cobb County, Georgia, as amended from time to time, to the extent that it classifies the Property in any zoning district which would preclude an CDC development, is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act,

and an unlawful delegation of authority under the specific constitutional provisions later set forth herein. Any existing inconsistent zoning of the Property pursuant to the Cobb County Zoning Ordinance deprives the current owner of any alternative reasonable use and development of the Property. Additionally, all other zoning classifications, including ones intervening between the existing classification and those requested herein, would deprive the current owner of any reasonable use and development of the Property.

Accordingly, Applicant submits that the current PSC zoning classification and any other zoning of the Property save for what has been requested by it as established in the Cobb County Zoning Ordinance constitute an arbitrary and unreasonable use of the zoning and police powers because it bears no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Property owners. All inconsistent zoning classifications between the existing zoning and the zoning requested hereunder would constitute an arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality or general welfare of the public and would substantially harm the Property owner. Further, the existing inconsistent zoning classifications constitute, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this project would constitute a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that the failure to approve the requested zoning change would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Finally, the Applicant respectfully submits that the Cobb County cannot lawfully impose more restrictive standards upon the development of the property than presently exist as to do so not only would constitute a taking of the property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

This Application meets favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power, Guhl vs. Holcomb Bridge Road, 238 Ga. 322 (1977).

4.

WHETHER THE ZONING PROPOSAL WILL RESULT IN A USE WHICH WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS

This project, if approved, certainly will not increase or promote any determined burdens associated with this use on existing streets, transportation facilities or utilities. It will have no impact on any schools. While requisite parking is provided incidental to this development and adequate points of ingress and egress to the Subject Property exist and work well. The Applicant does not anticipate any additional traffic.

The Applicant is not currently aware of any capacity limitations to this project, but will work closely with Cobb County to continue ensure adequate capacity as the project is developed.

5.

WHETHER THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN

The County’s Land Use Plan consists of a text and series of maps. The Plan is accompanied by a procedure to link changes in zoning with corresponding changes in the Plan in order to avoid repeating the situation in which a static land use plan and an evolving zoning map become increasingly out of step with each other. Thus, with an updated Plan in effect and a mandatory planning-zoning consistency mechanism in place, it is extremely important that any rezoning request, such as this one, be based on sound land use planning and comprehensive planning principles.

The proposed development is fully compliant with the Land Use Plan category applicable to the property and the Applicant submits that said proposal would effectively implement stated policies for this area of the County.

6.

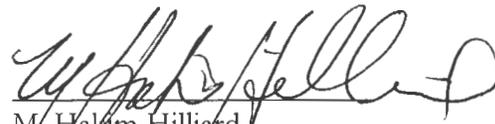
WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY, WHICH GIVE SUPPORTING GROUNDS FOR EITHER APPROVAL OR DISAPPROVAL OF THE ZONING PROPOSAL

The rezoning of the Subject Property to CRC should have a positive impact upon adjacent properties. The repair, replacement and upgrade of the site will benefit the entire area.

CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other

officials of with Cobb County Government so that such recommendations or input might be incorporated as conditions of approval of this Application.



M. Hakim Hilliard
Agent for Applicant



CARTER • MILLER • ASSOCIATES, LTD.
ENGINEERING • PLANNING • DESIGN

404 Hwy 19 N • P O Box 4324 • Meridian, MS 39304 • 601-483-0601

N. Brad Carter, Jr., P.E.
Gregory R. Miller, P.E.
Jerry G. Hobgood, AIA
Joshua L. Sansing, EIT

August 26, 2013

C & S Canopy, INC.
P.O. Box 526
Clanton, AL 35045



Reference: CITGO Upgrade, 3661 Austell Rd. SW, Marietta, GA

Dear David:

At your request I have examined the photographs provided by your office of the above referenced canopy. Inspection indicates that the roof deck is completely rusted through at several locations on both canopies. The photographs also indicate that all of the protective rust inhibition coating has weathered from the metal surfaces and oxidation is fully involved on the material surfaces.

In addition the date of original design and construction are not known therefore the code requirements of the original design are unknown. Significant changes were made to the design requirements of these type structures in 2005, especially with respect to wind requirements. These design requirements would significantly affect these types of structures and would most probably indicate that design from prior 2005 would not be equal to post 2005 requirements.

The existing structures life has been reduced by the progression of rust and the known design requirement changes indicate that replacement of the main and secondary structural elements would be warranted to insure safe and sanitary conditions.

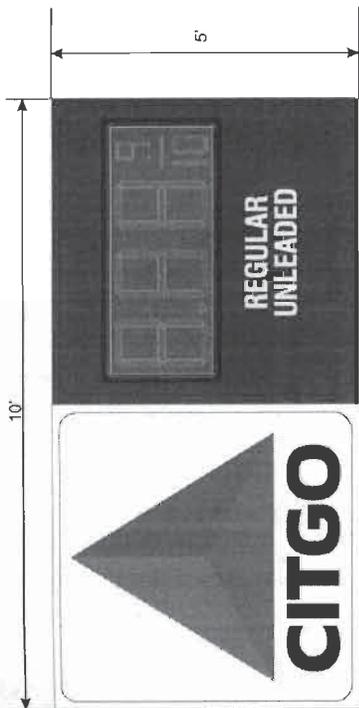
If you should have any questions please give me a call

Sincerely,

Gregory R. Miller, P.E.
GA Reg. No. 22794.

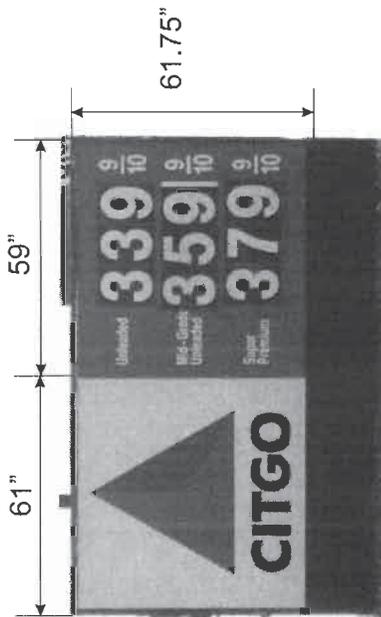


EXHIBIT 'B'

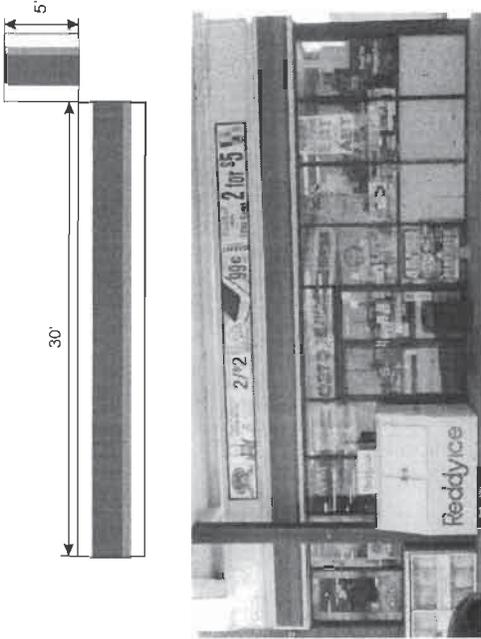


Drawn to 1/2"=1' scale

MID:
Remove existing signs (2). Install 2 new Euro style CITGO monument,
logo and one product LED. On existing foundations.



Two identical signs



Drawn to 1/8"=1' scale

C-store: install CITGO backcourt
graphics to replace QuadBand decals.



TOTAL IMAGING
"IMAGING THE PETROLEUM INDUSTRY"
2054 Atlas Circle, Gainesville, GA 30501
Phone (770) 536-7906 Fax (770) 532-0497

Details:

Project/Location:	3661 Austell Rd Marietta, Ga 30106	Job Number:	NLP-16392
Customer:	Next Level Petroleum	Date:	4/26/13
Drawn by:	CM	Scale:	As Noted

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EX. #