



City of Tucker

Land Use Petitions: RZ-19-0006, CV-19-0008, CV-19-0009, CV-19-0010, CV-19-0011

Date of Staff Recommendation Preparation: November 14, 2019

Community Council: October 9, 2019

Planning Commission: November 21, 2019 and
January 23, 2020

Mayor and City Council, 1st Read: January 27, 2020

Mayor and City Council, 2nd Read: February 24, 2020

PROJECT LOCATION:	4650 Hugh Howell Road
DISTRICT//LANDLOT(S):	18 th District, Land Lot 215
ACREAGE:	13.99 acres
EXISTING ZONING	M (Light Industrial)
PROPOSED ZONING:	C-2 (General Commercial)
FUTURE LAND USE MAP DESIGNATION:	LIND (Light Industrial)
OVERLAY DISTRICT:	Mountain Industrial Boulevard District
APPLICANT:	Branch Acquisition Company, LLC c/o Laurel David
OWNER:	Habersham Partners, LLC
PROPOSED DEVELOPMENT:	99,000 square foot commercial development
STAFF RECOMMENDATION:	DENIAL of RZ-19-0006 APPROVAL of CV-19-0008 APPROVAL of CV-19-0009 WITHDRAWAL of CV-19-0010 WITHDRAWAL of CV-19-0011

JANUARY 15, 2020 UPDATE

On January 7, 2020, the applicant submitted revisions to their application that reduced the amount of land that they are seeking to rezone from 23.77 acres to 13.99 acres and reduced the amount of proposed square footage from 154,000 square feet to 99,000 square feet. The reduction to a commercial center under 100,000 square feet removes the need for concurrent variances CV-19-0010 and CV-19-0011 as the frame and enclose standards only apply to shopping centers over 100,000 square feet. As the concurrent variances have been advertised, they will need to be formally withdrawn at a public hearing. While the parcel at 4650 Hugh Howell Road is currently 23.77 acres, the applicant has submitted a legal description for the 13.99 acres that are subject to rezoning per RZ-19-0006. Should the application be approved, the applicant will have to subdivide the property per the legal description submitted. This will avoid having a MZ (multiple zoned) parcel.

The applicant previously showed two phases on their initial site plan. The change to the application reflects the formal division of the two phases. The applicant is still under contract to purchase both portions of the development, but instead of entitling the entire 23.77 acres and developing it in two phases, the applicant is only seeking to rezone what was previously known as phase 1. This would allow what was previously known as phase 2 to be developed under the M (light industrial) zoning district or through another rezoning at a later date. The applicant has stated that the existing building would be demolished, but the building pad and surrounding impervious surface would remain on the remaining 9.78 acres. However, the applicant is still proposed to allow for interparcel access to the east, as well as right-of-way dedication and the construction of the required streetscape (trail) along the remaining Hugh Howell frontage (along the remaining 9.78 acres on the eastern side of the current parcel).

Should the applicant ultimately seek rezoning and development on the remaining portion of the current parcel, the total square footage would exceed 100,000 square feet, however, the frame and enclose standards listed in the site and building design article of the Zoning Ordinance would not be triggered as they would be two separate developments.

The application previously went before Planning Commission on November 21, 2019, where they recommended denial of the rezoning by a 4-0 vote. Even though they recommended denial of the rezoning, the Planning Commission was asked to vote on a recommendation for the concurrent variances so that Mayor and City Council would have guidance on these matters, should Mayor and City Council support the rezoning. CV-19-0008 and CV-19-0009 were recommended for approval. CV-19-0010 and CV-19-0011 were recommended for denial.

The cover page of this report and the recommended conditions have been updated, but the body of the staff report has not changed as the reduction in acreage and square footage does not constitute a change in the staff recommendation as the proposal is still not in compliance with the Comprehensive Plan. New information is in italics.

PROJECT DATA

The applicant is requesting a rezoning (RZ-19-0006) from M (Light Industrial) to C-2 (General Commercial) for a proposed 154,000 square foot commercial development on 23.77 acres on the northeast corner of Hugh Howell Road and Mountain Industrial Boulevard. Additionally, four concurrent variances are being requested to reduce the front setback requirements (CV-19-0008), to vary the building plane and scale standards (CV-19-0009), and to vary the frame and enclose standards for multibuilding nonresidential development over 100,000 square feet (CV-19-0010 and CV-19-0011).

The proposed development, as shown on the Nov. 14, 2019 site plan, includes two phases of future commercial development that total 154,000-square feet. The first phase includes 13.99 acres on the west side of the parcel. This portion includes an anchor grocery and two other retail/restaurant buildings located at the northern side of the site. At the southern end of phase 1 there are three proposed outbuildings. Four drive-throughs are shown in phase 1, including a building with a drive-through establishment fronting Hugh Howell Road and a free-standing atm drive through fronting Mountain Industrial. The applicant has not stated if the building with the drive-through establishment along Hugh Howell Road will be a bank or fast food establishment. The third drive-through also fronts Mountain Industrial Boulevard and is slated for a dry-cleaning establishment. The remaining drive-through is located between building 100 and 200 and would be used by the grocery pharmacy. This drive-through has limited visibility from the road. Drive-through establishments are permitted by right in the C-2 zoning district if they meet the supplemental regulations in Section 46-1166. Phase I also includes the master detention area for the site, which is located along Mountain Industrial Boulevard at the northwest corner of the subject property. The current interparcel connection to the north is shown as being removed for the proposed detention pond.

Phase II includes the remaining 9.78 acres on the east side of the parcel and shows two retail/restaurant buildings at the northern side of the site and two outparcel buildings along Hugh Howell Road. Interparcel connection is provided to the parcel to the east in Phase II.

The subject site, which is referred to as Tract 2 on the survey, is a part of the Stone Mountain Industrial Park and is currently developed with a 321,129-square foot industrial warehouse and an 8,331-square foot former NTB Building at the corner. The vacant industrial warehouse was developed in the 1960s and 1970s and was previously used by the Sears Corporation. Tract 2 previously contained two brick buildings (6,203 square feet and 6,304- square feet) related to the Georgia Power Company substation that serves the Sears Outlet Center to the north, but has since been removed from the subject parcel. This parceling was done outside of the City of Tucker plat process. A large amount of wooded open space would remain along the northern and eastern property lines. No stream buffer encroachments are shown on the submitted site plan.

BACKGROUND

Tract 2, also known as 4650 Hugh Howell Road, was previously part of two other land use petition applications in the City of Tucker. These applications were submitted in 2016 (CA-16-001, RZ-16-001, and SLUP-16-002) and 2017 (CA-17-001, RZ-17-002, SLUP-17-003) and were commonly referred to as The Rise or Nexus Tucker. CA-16-001, RZ-16-001, and SLUP-16-002 were withdrawn by the applicant at the second read of the ordinances at the January 23, 2017 City Council meeting. CA-17-001, RZ-17-002, SLUP-17-003 were denied by City Council at the second read of the ordinances at the August 30, 2017 City Council meeting. This denial led to a 24-month time restriction for the subject properties, as Section 46-1525(h) of the City of Tucker Zoning Ordinance states that "if an application for rezoning is

denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of 24 months from the date of the mayor and city councils' final decision."

The two previous development proposals included both 4650 Hugh Howell Road and what is now known as 4740 and 4780 Hugh Howell Road. The combined development included 88.62 acres and was considered a Development of Regional Impact (DRI). The transportation improvements that were recommended by GRTA as part of the DRI review were to be required at the time of full project buildout for the old proposal. As that proposal will never be fully built out, the DRI/GRTA improvements cannot be mandated. The current proposal is not considered a Development of Regional Impact as the minimum DRI threshold for a commercial development is 300,000 square feet. The current proposal is for 154,000 square feet.

Tract 1, the eastern most (former) Sears warehouse building site, was subdivided in January of 2018. 4740 Hugh Howell Road, which still contains the original warehouse building, is now being used by Crespac, which manufactures mushroom tills, meat and produce trays, and paint sundries. The remaining site, 4780 Hugh Howell Road, is being developed by the DeKalb County School System for the new Smoke Rise Elementary School.

COMMUNITY COUNCIL REVIEW

The proposal went before the Community Council on October 9, 2019. Neighborhood concerns and comments included the need to improve security and outdoor lighting, tree protection at that back of the development, and the elevations of the proposed buildings. One resident stated that they would like to see multiple stories at the street and the addition of office space. The Tucker Summit CID brought up several transportation issues including the future plans for improvement at Hugh Howell and Mountain Industrial Boulevard, the number of access points/curb cuts, and the need for interparcel access. Another neighbor inquired about if a residential component would be included, as she would like to see it be a live/work/play development.

The Community Council expressed interest in this parcel being developed. Concerns were raised about the setback variance and the effect that has on a right turn lane, and the proximity of this commercial development to the nearby school in regard to any distance requirements for certain uses. The Community Council asked for clarification on whether the applicant has sewer capacity or plan for sewer, about whether or not tenants are confirmed to move in to the buildings, where public space and walking trails are located, the number of curb cuts on the parcel and about how much empty retail there is in Tucker already - how this new site could be filled with existing stock. Community Council also asked the applicant to clarify about whether or not there would be a MARTA stop included in the redevelopment of the site.

As is standard, the Community Council did not make a recommendation of approval or denial.

The applicant submitted formal responses to the issues raised at the Community Council meeting on October 18, 2019. These responses are included in the meeting packet.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Current Land Use
Adjacent: North	M (Light Industrial)	Sears Outlet Store
Adjacent: East	MZ: multiple zones RE (Residential Estate) M (Light Industrial)	Industrial Warehouse (Crespac)
Adjacent: South	M (Light Industrial) (several parcels)	Industrial/Office
Adjacent: South	M-2 (Heavy Industrial)	LPS Labs
Adjacent: West	M (Light Industrial)	CubeSmart Self Storage
Adjacent: West	M (Light Industrial)	Industrial Warehouse (Scandinavian Tobacco Group)



Aerial Map of 4650 Hugh Howell Road and Surrounding Area.

CHARACTER AREA (Future Land Use)

The City of Tucker adopted the new *Tucker Tomorrow Comprehensive Plan* in April 2018 and the property is located within the Light Industrial Character Area on the future land use map. Character Areas are generally used as a visioning guide for an area that identifies items such as primary land uses, development strategies, and design considerations. Character Areas speak to the adopted vision of the community as it continues to grow and develop over time. The Light Industrial Character Area's primary land uses are light industrial, manufacturing, warehouse/distribution, wholesale/trade, automotive uses, and accessory commercial. Overall, the light industrial character areas are largely dedicated to low-intensity manufacturing, wholesale trade, and distribution activities that do not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, or other nuisances.

Goal 5 of the comprehensive plan is to bolster the economic base. In particular, the comprehensive plan states, *"the market indicates there remains a high demand for industrial uses in this area. Investing in modernizing and redeveloping the less competitive assets in the Mountain Industrial area to compete better in this market strengthens the financial health of the Mountain Industrial businesses while providing positive fiscal health and an expanded employment base for Tucker and DeKalb County"*.

The property is also a part of the "Gateway Corridor Redevelopment" area which covers the Lawrenceville Highway-Hugh Howell Road Corridor. Development strategies includes "transforming the corridor into an attractive gateway to the many neighborhoods, downtown, and commercial centers that are adjacent to it," "seeking opportunities for installing even deeper landscaped edges to take advantage of the relatively deep setbacks along much of this section of the corridor," and "reviewing the development of a multiuse trail along Hugh Howell Road."

OVERLAY DISTRICT

The subject property is located within the Mountain Industrial Boulevard Overlay District. The intent of the Mountain Industrial Overlay district is to preserve and enhance the long-term economic viability of the Mountain Industrial Boulevard corridor by encouraging investment that increases the tax base and provides employment opportunities to the citizens of the City of Tucker; to improve the visual appearance and increase property values within the corridor; allow flexibility in development standards in order to encourage the design of innovative development projects that set high standards for landscaping, green space, urban design, and public amenities; and promote uniform and visually aesthetic architectural features which serve to unify the distinctive visual quality of the corridor.

Rezoning (RZ-19-0006)

The applicant seeks rezoning from M (Light Industrial) to C-2 (General Commercial).

Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

REZONING - CRITERIA TO BE APPLIED:

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The subject property is currently located within the Light Industrial (LIND) Character Area which does not support a 154,000 square foot commercial shopping center on 23.77 acres. The LIND Character Area supports light industrial uses, manufacturing, warehouse/distribution, wholesale/trade, automotive, and accessory commercial. While the primary land uses include accessory commercial, staff does not consider a 154,000 square foot shopping center to be an accessory. Several character areas in the Tucker Tomorrow Comprehensive Plan call out "retail/service commercial" as a primary land use, including Downtown, Regional Activity Center, Neighborhood Center, Medical Area, and Commercial Redevelopment Corridor. The proposal is more in keeping with "retail/service commercial" than "accessory commercial" and would be more appropriate in another character area.

Goal 5 of the comprehensive plan is to bolster the economic base. In particular, the comprehensive plan states, *"the market indicates there remains a high demand for industrial uses in this area. Investing in modernizing and redeveloping the less competitive assets in the Mountain Industrial area to compete better in this market strengthens the financial health of the Mountain Industrial businesses while providing positive fiscal health and an expanded employment base for Tucker and DeKalb County".* Converting 23.77 industrial acres to a commercial shopping center would go against this goal of the Comprehensive Plan.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The subject parcel is located in Tucker's industrial corridor. While C-2 (General Commercial) is an intense zoning district that could be considered appropriate for an industrial area, the proposed use of this specific request is not in keeping with an industrial area. The M (Light Industrial) zoning district currently allows retail under 5,000 square feet and retail warehouse/wholesale over 70,000 square feet, but prohibits grocery stores and shopping centers. The proposed commercial development could serve the residential developments on either side of the industrial corridor, as well as the employees of the industrial corridor.

The proposed changes meet some of the intent of the Mountain Industrial Overlay. Section 46-1072 states that the purpose and intent of the overlay is "to improve the visual appearance and increase property values within the corridor" and "to preserve and enhance the long-term economic viability of the Mountain Industrial Boulevard corridor by encouraging investment that increases the tax base and provides employment opportunities to the citizens of Tucker." If approved, the

development would improve the visual appearance of the corridor to a degree (see concurrent variance CV-19-0009, CV-19-0010 and CV-19-0011), add jobs, and increase the tax base, however, it would result in a net loss of light industrial land area which provides for a more diverse job base overall in the city.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The property has a reasonable economic use as currently zoned. There are over 100 different permitted uses available under the current light industrial zoning district, meaning that there are a variety of other options for the property other than past use of a distribution facility. For example, a 65,000-square foot genetic testing laboratory opened in 2016 to the north of the site/railroad and CubeSmart Self-Storage repurposed an industrial building to the west in 2018. Industrial zoning has value, as evident by the recent industrial development in Tucker which includes:

- Reuse: 190,644- square foot industrial warehouse reused by Crespac
- Newly constructed: 188,720 square-foot industrial building for Seefried at 4561 Greer Circle
- Under construction: 205,862 square-foot industrial warehouse for Underpriced Furniture at 4473 Sarr Parkway
- Slated for construction: 158,570 square-foot warehouse distribution facility for Oakmont at 5804 East Ponce de Leon Avenue
- Slated for construction: 132,600 square-foot expansion for TOPCU Tile and Stone at 1555 Roadhaven Drive

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The specific use will not have a direct adverse effect on adjacent or nearby properties, but it could set a precedent which would further erode the integrity of the industrial corridor.

5. 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 current proposal is a more appropriate request than the other applications mentioned earlier in the report. The incorporation of some light industrial uses into the current development proposal would be more in keeping with the intent of the character area. The current strength of the industrial corridor gives grounds for a greater mix of uses.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties.

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

The zoning proposal could cause an excessive and burdensome use of existing streets, transportation facilities, and utilities. The applicants traffic study states that the “existing operations analysis indicates that the signalized intersection of SR 236 (Hugh Howell Road) at Mountain Industrial Boulevard is currently operating at an overall level-of-service “F” during the AM and PM peak hours.” Additionally, the report shows that the total new AM peak hour trips will be 286 and the total new PM peak hour trips will be 859 (without the reduction of pass-by trips). The City of Tucker has a plan identified in the Transportation Master Plan to improve this intersection. The continuation of interparcel access to the north (Sears Outlet Site) could potentially reduce the number of trips through the intersection as the rest of the area develops over time. To remove this connection would have an excessive and burdensome use of existing streets.

No negative impact will occur to the schools in terms of student count as the proposal does not include any residential units. When Smoke Rise Elementary School was going through the Land Development Review process it was very important that interparcel access be provided from the school site to Mountain Industrial Boulevard. The school has emergency only interparcel access with Crespac and the rezoning proposal that is a part of this application includes interparcel access with Crespac (through phase II). The phasing of the development shall be conditioned to ensure that the interparcel connection to the east is developed as part of phase 1.

DeKalb County Watershed management has stated that this site has sewer capacity in the amount of 148,092 gpd PEAK daily flow.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The proposed zoning request will not adversely impact the environment and surrounding natural resources as the proposed development is respecting the state and local stream buffers.

Conclusion: Staff recommends denial of RZ-19-0006. Staff will provide a review and analysis of the four concurrent variances requests should the rezoning be approved.

Concurrent Variance (CV-19-0008)

Concurrent Variance CV-19-0008 is a request to reduce the front yard setback on both Hugh Howell Road and Mountain Industrial Boulevard. Mountain Industrial Boulevard is considered the front of the property and is a major arterial, therefore, it has a 60' front setback. Hugh Howell Road is considered the side corner and has a 50' setback. The concurrent variances request is to reduce front setback along Mountain Industrial Boulevard from 60' to 10' and to reduce the side corner setback along Hugh Howell Road from 50' to 35'. This variance will allow the developer to place several of the buildings at the street, screening a majority of the parking.

Criteria for variance approval are provided in Section 46-1633 of the City of Tucker Zoning Ordinance.

CRITERIA TO BE APPLIED – CONCURRENT VARIANCE

- 1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slopes), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The subject site is 23.77 acres and contains a stream and a large area of dense trees at the northeast corner. Granting a front setback variance will ensure that the development can occur outside of the protected stream buffers.

- 2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The granting of the variances will not go above the minimum necessary to afford relief as a portion of the front setback will remain along both frontages. A multiuse trail and open space will also be provided between the road and the proposed buildings which will soften the front setback reduction.

- 3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

Granting this variance will not be materially detrimental to the public welfare as it will allow for a more attractive development in the Mountain Industrial Boulevard Overlay. The goals of the overlay include "to improve the visual appearance and increase property values within the corridor" and to "allow flexibility in development standards in order to encourage the design of innovative development projects that set high standards for landscaping, green space, urban design, and public amenities." By bringing the buildings to the street and incorporating greenspace at the street, the frontage of the proposed development will be an improvement to both the subject parcel and the area as a whole. Note that the concurrent variances (CV-19-0010 and CV-19-0011) to the frame and enclose standards have a different impact on the property and the Mountain Industrial Boulevard Overlay.

- 4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

The literal interpretation and strict application of the applicable provisions could cause undue and unnecessary hardship if it forced them to develop within the 75' stream buffers on the property.

- 5. The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.**

The requested variance is consistent with the spirit and purpose of the comprehensive plan text by allowing buildings and green space to be located at the street, screening a majority of the parking and activity the street. The Light Industrial Character Area states that design considerations for the area includes “create deep landscaped buffered edge on the north side of Gateway Corridor within the Mountain Industrial Area,” and “installing landscaping and design measures to soften or shield views of buildings and parking lots, and loading docks.” The “Gateway Corridor” Redevelopment area states that a design consideration is to seek “opportunities for installing even deeper landscaped edges to take advantage of the relatively deep setbacks along much of this section of the corridor.” While the developer is not filling the large front setback with green space, they are proposing a plan tries to bridge together the overall intent of both the overlay and character areas at the street.

Conclusion: Staff recommends approval of CV-19-0008.

Concurrent Variance (CV-19-0009)

Concurrent Variance CV-19-0009 is a request to reduce the building plane and scale standards in Section 46-1419(b)(2) of the City of Tucker Zoning Ordinance. Section 46-1419 includes design standards for multi-family, nonresidential, live/work and mixed-use buildings. The code specifically states that “building facades shall not exceed 40’ in length without projections, recesses or other architectural features.” As the code is not specific on the depth of projections and recesses, nor lists appropriate architectural features, the applicant is seeking a variance. They are requesting to allow “the façade of the anchor building to have building facades up to 100’ in length with projections or recesses of approximately 4 inches or less and architectural features, such as, canopies, awnings, or a mix of materials or colors or patterns of materials.” Additionally, they are requesting “to allow the building facades on Buildings 200, 600, and 800 to have building facades up to 60 feet in length with projections or recesses of approximately 4 inches or less and architectural features, such as, canopies, awnings, or a mix of materials or colors or patterns of materials.”

Criteria for variance approval are provided in Section 46-1633 of the City of Tucker Zoning Ordinance.

CRITERIA TO BE APPLIED – CONCURRENT VARIANCE

- 1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slopes), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

While the subject site contains a stream and a large area of dense trees at the northeast corner, these elements do not create a hardship in terms of building plane and scale standards.

- 2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The requested variances does not go beyond the minimum necessary to afford relief as the applicant is still proposing alternatives for building plan and scale standards, while providing clarification for development standards.

- 3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The granting of this variance will not be materially detrimental as the applicant is still proposing attractive facades with projections, recesses, and other architectural features.

- 4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

The literal interpretation and strict application of the code requirements could not cause undue and unnecessary hardship, so long as the code section is clarified for the development.

- 5. The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.**

The proposal meets the intent of the Zoning Ordinance and the Comprehensive Plan by include improving the visual appearance of the corridor.

Conclusion: Staff recommends **approval of CV-19-0009.**

Concurrent Variance (CV-19-0010)

CV-19-0010 and CV-19-0011 are requests to vary the frame and enclose standards found in Section 46-1419(i)(3) of the City of Tucker Zoning Ordinance. The code lists three frame and enclose standards which apply to a nonresidential development composed of multiple buildings totaling 100,000 square feet or more.

Variance CV-19-0010 is to vary the requirement in Section 46-1419(i)(3)a, which require the development to frame and enclose a main street pedestrian or vehicle access corridor entering the development site. The applicant is showing that the main access (full access curb cut) on Hugh Howell Road is framed and enclosed by outparcels and green space, however, the building on the east side of the main entrance is a part of phase II meaning that if only phase 1 is constructed, it cannot meet the requirements of the code. The remaining length of this access is only defined by a thin landscape strip.

The full access curb cut on Mountain Industrial Boulevard is located at the rear of the site, behind all of the buildings, so the right-in/right-out access should be the one that meets the frame and enclose standard. This access is not framed or enclosed for either pedestrians or vehicles, as only a portion of it is defined by a thin landscape strip.

Criteria for variance approval are provided in Section 46-1633 of the City of Tucker Zoning Ordinance.

CRITERIA TO BE APPLIED – CONCURRENT VARIANCE

- 1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slopes), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The subject site is 23.77 acres and contains a stream and a large area of dense trees at the northeast corner. There are several ways that the buildings and green space can be arranged outside of these areas to create a main street pedestrian or vehicle access corridor.

- 2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

Granting the variance would go beyond the minimum necessary as the applicant is showing minor entrance details, especially with the project phasing. Staff provided the following direction to the applicant between Community Council and Planning Commission in hopes that the plan would be able to meet some of the intent of the code requirement:

- Create prominent entry features/drive aisles/boulevards when you rearrange the curb cuts.
- Consider large landscaped median/islands with low impact stormwater included.
- Break parking lot into two main boulevards.
- Relocate some of the buildings so that they front the prominent entry/drive aisle/boulevard to meet some of the intent of the frame and enclose standards.

Some changes were made to increase the green space along the entrance drives (larger landscape strips), but more could be done to meet the intent of the code. While the main entrance off of Hugh Howell Road (the area between building 500 and 900) meets the intent of the code, it will only occur if Phase II is constructed.

3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.

The granting of the variances will not be materially detrimental to the public welfare, but it will take away from the design standards set by the city to create high quality shopping centers.

4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.

The strict application of these requirements would not cause undue and unnecessary hardship as all that is required is rearranging the site plan so that there are large green spaces, boulevards, and buildings fronting the main entrances.

5. The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.

Approval of the requested variance would not be consistent with the spirit and purpose of the Zoning Ordinance and Comprehensive Plan. The goals of the overlay include “to improve the visual appearance and increase property values within the corridor” and to “allow flexibility in development standards in order to encourage the design of innovative development projects that set high standards for landscaping, green space, urban design, and public amenities.” A design consideration of the Light Industrial Character area includes “installing landscaping and design measures to soften or shield views of buildings and parking lots, and loading docks.” The frame and enclose requirements exist for large developments such as this in order to provide higher quality shopping centers that meet current development trends. Giant asphalt parking lots, visible from the street, are no longer the trend, nor are they aesthetically pleasing. While a majority of the parking lot is screened from Hugh Howell Road with liner buildings, more could be done to improve the sense of place that the development will create by including more elements that would further meet the intent of the frame and enclose standards.

Conclusion: Staff recommends denial of CV-19-0010.

Concurrent Variance (CV-19-0011)

CV-19-0010 and CV-19-0011 are requests to vary the frame and enclose standards found in Section 46-1419(i)(3) of the City of Tucker Zoning Ordinance. The code lists three frame and enclose standards which apply to a nonresidential development composed of multiple buildings totaling 100,000 square feet or more.

Variance CV-19-0011 is to vary the requirement in Section 46-1419(i)(3)b, which require the development to frame and enclose at least three sides of parking areas, public spaces, or other site amenities.

The proposed development is laid out in a way that the open spaces are located between the buildings and the street, meeting the intent of the code requirement. However, the parking areas are not enclosed on at least three sides. Liner buildings block a majority of the parking along Hugh Howell Road, but a large area is exposed in front of the anchor grocer. The applicant has stated that visibility is a requirement of their tenant, who has not yet been announced. Additionally, a large area of parking is visible from Mountain Industrial Boulevard.

Criteria for variance approval are provided in Section 46-1633 of the City of Tucker Zoning Ordinance.

CRITERIA TO BE APPLIED – CONCURRENT VARIANCE

- 1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slopes), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The subject site is 23.77 acres and contains a stream and a large area of dense trees at the northeast corner. There are several ways that the buildings can be arranged outside of these areas to enclose the parking areas. Other design elements, such as entry walls or berms, could also be used to help screen the parking lot.

- 2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The request does not go beyond the minimum necessary as a majority of the parking is screened. Smaller areas of parking spaces were shown on the September 27, 2019 site plan, but the applicant relocated these spaces so that there would not be parking spaces between the liner buildings and the street.

- 3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The granting of the variances will not be materially detrimental to the public welfare, but it will take away from the design standards set by the city to create high quality shopping centers.

4. **The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

The strict application of these requirements would not cause undue and unnecessary hardship as all that is required is rearranging the site plan so that buildings or other design features frame and enclose the parking.

5. **The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.**

The proposed variance meets some of the intent of the Zoning Ordinance and Comprehensive Plan, but more could be done to frame and enclose the parking – or screen it from view.

Conclusion: Staff recommends **denial of CV-19-0011.**

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of Land Use Petition **RZ-19-0006**.

Should the governing bodies choose to approve the rezoning request, Staff recommends **APPROVAL** of **CV-19-0008 and CV-19-0009** and withdrawal of **CV-19-0010 and CV-19-0011**.

Staff also would recommend that the requests be approved subject to the following conditions:

1. The property shall be developed in general conformance with the site plan submitted on *January 07, 2020* to the Community Development Department, except for revisions required to meet the conditions of zoning approval.
2. Use shall be limited to a *99,000 square foot* shopping center. No more than three drive-through buildings shall be located on the site. No freestanding drive-throughs, such as free-standing ATM's, shall be permitted. No collection bins shall be permitted.
3. The front setback along Mountain Industrial Boulevard shall be reduced to 10' and the side corner setback along Hugh Howell Road shall be reduced to 35' (CV-19-0008).
4. The façade of the anchor building shall have building facades up to 100' in length with projections or recesses of approximately 4 inches or less and architectural features, such as, canopies, awnings, or a mix of materials or colors or patterns of materials. The building facades on Buildings 200, 600, and 800 shall have building facades up to 60 feet in length with projections or recesses of approximately 4 inches or less and architectural features, such as, canopies, awnings, or a mix of materials or colors or patterns of materials (CV-19-0009).
5. All buildings shall have a cohesive architecture and high quality "industrial feel" materials.
6. Buildings shall be predominantly brick with metal panel roof and siding elements, concrete and EFIS, metal canopies, and aluminum storefronts.
7. Restaurant/Retail buildings 300, 400, 500, 900, and 1000 shall have four-sided architecture.
8. Restaurant/Retail buildings 500, 900, and 1000 shall have patios, outdoor dining and/or gathering areas adjacent to the pedestrian paths and Hugh Howell streetscape.
9. The storefront for building 300, at the intersection of Mountain Industrial Boulevard and Hugh Howell Road, shall integrate a prominent entry feature and building design that activates the corner, with an entrance oriented toward the intersection.
- ~~10. A phasing plan shall be submitted prior to the 2nd read of Mayor and City Council that includes a site plan showing how Phase I will be developed without Phase II. The following elements of Phase II shall be implemented with the construction of Phase I: the deceleration lane at the full access curb cut on Hugh Howell Road, green space shall be installed in the area in and around building 900 and 1000, the landscape strip on either side of the main drive aisle that straddles~~

~~Phase I and Phase II, and the interparcel connection to the east. Curb and gutter shall be installed to cap the end of Phase 1.~~

11. Refuse areas shall be screened from view of all public right-of-way and shall be constructed from the same materials as the primary buildings and with a similar level of architectural quality and detailing.
12. There shall be one main east/west and one main north/south thoroughfare/boulevard that provides continuous access throughout the development that is framed by buildings and open space.
13. No parking lots shall front Mountain Industrial Boulevard or Hugh Howell Road. Parking shall not be permitted between any building and these public right-of-ways.
14. All utilities in the interior of the development shall be placed underground.
15. The development shall be limited to one (1) full access entrance and one (1) right in/right out only entrance on Hugh Howell Road, and one (1) full access entrance and one (1) right in/right out only entrance Mountain Industrial Boulevard. The location of said entrances are subject to sight distance and spacing requirements and are subject to the approval of the Tucker City Engineer and the Georgia Department of Transportation.
16. Owner/Developer shall install a five foot (6') wide sidewalk and ten foot (10') landscape strip along the entire frontage of Mountain Industrial Boulevard.
17. Owner/Developer shall install a ten foot (10') wide concrete path with a five foot (5') wide landscape strip along the entire frontage of Hugh Howell Road.
18. Owner/Developer shall install pedestrian street lighting along Mountain Industrial Boulevard and Hugh Howell Road.
19. Owner/Developer shall install deceleration lanes at all proposed driveways on Hugh Howell Road and on Mountain Industrial Boulevard.
20. Owner/Developer shall construct a left turn lane into the full access driveway on Hugh Howell Road subject to the approval of the Tucker City Engineer and the Georgia Department of Transportation.
21. Owner/Developer shall dedicate at no cost to the City of Tucker additional right-of-way along Mountain Industrial Boulevard and along Hugh Howell Road such that there is a minimum of eleven feet (11') from back of curb or two feet (2') from back of sidewalk, whichever is greater.
22. Owner/Developer shall dedicate at no cost to the City of Tucker an additional ten feet (10') of right-of-way along Mountain Industrial Boulevard from Hugh Howell Road to the southernmost curb cut.
23. Owner/Developer shall construct a westbound right turn lane along Hugh Howell Road onto

Mountain Industrial Boulevard at no expense to the City of Tucker, subject to the approval of the City Engineer and the Georgia Department of Transportation.

24. Owner/Developer shall provide a bus shelter along Hugh Howell Road, in coordination with and per MARTA's approval.
25. Owner/Developer shall provide an interparcel access easement to the adjacent properties to the north and the east in order to allow for interparcel vehicular ingress and egress between the properties. ~~The proposed detention pond shall be reconfigured/relocated to accommodate the interparcel access to the north.~~
26. Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition.
27. Owner/Developer shall comply with City and State requirements regarding stream buffers.
28. Owner/Developer shall comply with Section 14-39 of the City of Tucker Code of Ordinances concerning tree protection and replacement. A minimum tree density of thirty (30) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree replacement units as required in the ordinance.
29. Water and sewer approval is required by the DeKalb County Department of Watershed Management.

Department Comments

ARBORIST

Owner/Developer shall comply with Section 14-39 of the City of Tucker Code of Ordinances concerning tree protection and replacement. A minimum tree density of thirty (30) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree replacement units as required in the ordinance.

CITY ENGINEER

- Currently property is currently zoned M. The applicant is requesting a rezoning to C-2 to construct the following improvements:
 - Total property size – 23.77 acres
 - 154,000 sf of retail, restaurant, commercial
 - 773 parking spaces
- A Traffic Impact Study is required for this application and has been received.
- There are several planned transportation improvements in the vicinity of this project:
 - The Transportation Master Plan identifies the need for a sidewalk along the east side of Mountain Industrial Boulevard.
 - The Transportation Master Plan identifies the need for a multi-use trail along the north side of Hugh Howell Road.
 - The Transportation Master Plan identifies the need for a second northbound left turn lane and a right turn lane on all approaches at the intersection of Hugh Howell Road and Mountain Industrial Boulevard.
 - The Trail Master Plan identifies the need for a greenway trail along the north side of Camp Creek (north of this project).
 - There is a planned intersection improvement in the GDOT Transportation Improvement Program for the intersection of Hugh Howell Road and Mountain Industrial Boulevard (PI #0015216). Construction is currently programmed for 2022.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

The site has approval for sewer capacity in the amount of 148,092 gpd PEAK daily flow.

DEKALB COUNTY FIRE MARSHAL OFFICE

Based on the information provided, my pre-submittal comments for this project are as follows:

1. Please include an auto-turn simulation for fire apparatus access.
2. Also, include the location of existing and proposed fire hydrants.
3. Comply with code requirements for fire hydrant spacing and number of hydrants based on fire flow.
4. For proposed fire lines, the lines shall not be less than 6" diameter; 8" with multiple hydrants or fire hydrant and sprinkler system supply.

DEKALB COUNTY SCHOOLS

Not applicable.