



City of Tucker

Land Use Petitions: RZ-21-0003

Date of Staff Recommendation Preparation: September 22, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

PROJECT LOCATION:	4650 Hugh Howell Road
DISTRICT//LANDLOT(S):	18 th District, Land Lot 215
ACREAGE:	±13.99
EXISTING ZONING	C-2 (General Commercial)
PROPOSED ZONING:	C-2 (General Commercial)
FUTURE LAND USE MAP DESIGNATION:	LIND (Light Industrial)
OVERLAY DISTRICT:	Mountain Industrial Boulevard District
APPLICANT:	Branch Hugh Howell Associates, LP, c/o Laurel David
OWNER:	Branch Hugh Howell Associates, LP
PROPOSED DEVELOPMENT:	Major modification of existing conditions of RZ-19-0006
STAFF RECOMMENDATION:	APPROVAL with conditions of RZ-21-0003

BACKGROUND

The applicant is requesting a major modification to conditions of zoning placed on the property. The subject property was rezoned in 2019, pursuant to RZ-19-0006, from M (Light Industrial) to C-2 (General Commercial). Four concurrent variances were also requested at the time 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 developments over 100,000 square feet (CV-19-0010 and CV-19-0011). The rezoning and concurrent variances were approved by Mayor and City Council with conditions on March 9, 2020.

While the initial site plan for the rezoning showed four drive-through buildings, including one on the subject building (400), a condition was placed on the property to limit the number of drive-throughs to buildings 100 and 200. The applicant is now requesting a modification to these conditions to allow for the drive-through formerly proposed on building 200 to be relocated to the proposed 2,950 square foot building (400) located on the southwestern portion of the site.

The applicant is specifically requesting to amend conditions 1 and 2, which relate to the previously approved site plan and the use of the site.

1. The property shall be developed in general conformance with the site plan submitted on February 24, 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 two drive-through buildings shall be located on the site, as shown on buildings 100 and 200 on the site plan referenced in Condition 1 herein. No freestanding drive-throughs, such as free-standing ATM's shall be permitted. Only one remote teller/automatic teller for the same financial establishment on site shall be permitted as shown on the site plan referenced in Condition 1. No collection bins shall be permitted.

The subject site 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."

PROJECT DATA

The subject property is located at the northeastern intersection of Hugh Howell and Mountain Industrial Boulevard. The 13.99-acre site is currently under development for a 99,000 square foot commercial shopping center. The northern side of the site includes an anchor grocery and two other retail/restaurant buildings. At the southern end of the site there are three proposed outbuildings.

Four drive-throughs were originally proposed during the 2019 rezoning, including the subject building

fronting Hugh Howell Road. The second was a free-standing ITM drive-through fronting Mountain Industrial Boulevard. The third drive-through also fronted Mountain Industrial Boulevard and was slated for a dry-cleaning establishment. The fourth drive-through was located between buildings 100 and 200 and was to be used by the grocery pharmacy. Drive-through establishments are permitted by right in the C-2 zoning district if they meet the supplemental regulations in Section 46-1166; however, when the rezoning was approved, the master plan was conditioned to only allow drive-throughs for the anchor grocery and dry-cleaning establishment to create a less intense use.

The applicant is now requesting a change in conditions in order to relocate the approved drive-through for the dry-cleaners on building 200 to one of the previously proposed drive-through buildings (400) located on Hugh Howell. The proposed drive-through facility will service a one-story, 2,950-square foot fast-casual restaurant (Gusto) that is located on the southwestern portion of the 13.99-acre site. The proposed building will front Hugh Howell Road with the drive-through lane circling the back of the building, which is a supplemental requirement for restaurants with drive-through facilities. If approved, the applicant will need to submit a revision to their land disturbance permit and apply for a building permit where compliance with the other supplemental regulations will be reviewed by staff. The site plan shows an outdoor dining space located on the rear of the building. The proposed restaurant will have multiple access points from within the shopping center.

CHARACTER AREA (Future Land Use)

The subject 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.

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.

PUBLIC PARTICIPATION PLAN REPORT

The applicant hosted a community meeting at the subject property on September 8, 2021, after notifying property owners within 500 feet of the subject parcel. There were 9 people in attendance including two members of Branch Properties, their zoning attorney and the proposed tenant's CEO. The applicant's report listed concerns and questions regarding traffic and the proposed multi-use path along Hugh Howell Road. It does not appear that any changes were made to the site plan as a result of the Public Participation Meeting.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Current Land Use
Adjacent: North	M (Light Industrial)	American Freight (Appliance, Furniture, Mattress)
Adjacent: East	M (Light Industrial)	Remaining Industrial Warehouse from former Sears Site
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)



Zoning and Aerial Exhibits showing surrounding land uses

Major Modification/Rezoning (RZ-21-0003)

The process and regulations for modifications and changes to approved conditions of zoning are outlined in Sec. 46-1565 of the City of Tucker Zoning Ordinance. This section falls under Division 3: Zoning and Comprehensive Plan Amendments and Procedures. Minor changes can be handled administratively, but major changes, such as changes to conditions of approval, require the full public hearing process and review. 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. The LIND Character Area supports light industrial uses, manufacturing, warehouse/distribution, wholesale/trade, automotive, and accessory commercial. The larger site, a 99,000 square foot shopping center, does not meet the intent of the Light Industrial Character Area. However, the development was approved pursuant to RZ-19-0006. The proposed use of a fast-casual restaurant with a drive through facility aligns with the Light Industrial primary land use of accessory commercial. The nature of the proposed fast-casual restaurant is less intense than a typical drive-through restaurant.

However, Staff would like to note that there are several Gusto locations that do not have drive-through facilities including Buckhead and Avalon.

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. It is surrounded by industrial properties. The subject site was rezoned from M (Light Industrial) to C-2 (General Commercial) in 2019. While drive-throughs restaurants are not permitted in the M zoning district, C-2 allows for drive-through restaurants if they meet the supplemental regulations listed in Section 46-1166. The proposed drive-through restaurant could serve the residential developments on either side of the industrial corridor, as well as the employees of the industrial corridor.

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. Branch Properties agreed to the conditions of zoning in 2019 (RZ-19-0006) and is actively developing the site per the approved conditions.

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 as Gusto is a low intensity drive through user. Additionally, while the tenant use of the drive through is different (dry cleaners to restaurant) there is no net increase in the number of drive through facilities on the site. The applicant's request is to move one of the proposed drive-throughs from building 200 to building 400.

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.

There are no known existing or changing conditions that affect the use and development of the subject parcel.

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 will not result in a use that could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, and schools as Gusto is a low intensity drive through facility. The proposed development was approved for two drive-through buildings. The applicant is proposing to move a permitted drive-through to a different building. The applicant is not proposing to add any additional drive-throughs.

Staff would be concerned about the impact to the site if the tenant was more of a high intensity user. While the City of Tucker code only requires 10 stacking spaces, corporations typically have their own requirements for their drive through facilities. For example, one well known heavy intensity user requires 20-25 stacking spaces. Information provided by Gusto states they average 10 cars or less. A lower intensity user has less impact on a large commercial center and the surrounding area.

Drive through facilities in the City of Tucker typically require a SLUP, which cannot be transferred to another tenant. In this situation, the drive through facility is allowed by the C-2 zoning so no transfer limitations exist per code. The addition of a drive through facility at this location could restrict others to open as a proliferation of drive through facilities would exist.

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 approval of RZ-21-0003.

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL WITH CONDITIONS** of Land Use Petition **RZ-21-0003**. **Changes to previous conditions are shown in italics.**

1. The property shall be developed in general conformance with the site plan submitted on February 24, 2020 to the Community Development Department (*the Master Site Plan*) and with the site plan revision submitted on September 15, 2021 to the Community Development Department (*the Revised Site Plan*), 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 two drive-through buildings shall be located on the site, as shown on building 200 on the *Master Site Plan* and the *free-standing restaurant on the Revised Site Plan (building 400)* referenced in Condition 1 herein. Only one remote teller / automatic teller for the same financial establishment on site shall be permitted as shown on the site plan referenced in Condition 1. 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', as measured from the existing right-of-way (CV-19-0008).
4. The facade of the anchor building (building 100) may 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 and 600 may 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, and 500 shall have four-sided architecture.
8. Building 300 and 400 shall have active storefronts that face Hugh Howell Road.
9. Each restaurant suite in Building 500 shall have an active public entrance facing Hugh Howell Road. The west end suite shall have 50 square feet of storefront of storefront glazing. The east end suite shall have 155 square feet of storefront glazing. Architectural detailing, such as recessed building materials consistent with the primary building materials,

shall be used to create the appearance of a storefront on all interior suites.

10. When possible, utility equipment shall be located on facades that are not visible from the public right-of-way. Utility equipment shall be screened with landscaping and/or architectural features and when permissible, painted to match the exterior building material.
11. Restaurant/Retail building 500 shall have patios, outdoor dining and/or gathering areas adjacent to the pedestrian paths and Hugh Howell streetscape.
12. 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/storefront oriented toward Hugh Howell Road.
13. A minimum 20 feet of landscaped greenspace shall be provided between the driveway in front of Building 400 and the 10' wide concrete path mentioned in Condition #23, as shown on the site plan referenced in Condition 1 and subject to the approval of the Georgia Department of Transportation.
14. Storefronts shall not be covered with opaque film, shelving, etc that prevent visibility into the space. If a suite has three or more storefront facades, a portion may be covered to accommodate interior layout needs so long as the overall architectural design of the suite is consistent.
15. 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.
16. There shall be one main east/west (terminating at the west side of the anchor building parking field) and one main north/south thoroughfare/boulevard that provides access throughout the development that is framed by open space as shown on the site plan referenced in Condition 1. No parking spaces shall be located along these thoroughfare/boulevards.
17. A berm shall be installed that fills the area between the back of sidewalk and back of curb in front of the 20 parking spaces abutting Mountain Industrial Road and the 21 parking spaces abutting Hugh Howell Road.
18. A 10' landscape strip and 5' sidewalk shall be along the east property line, on the adjacent property, in the area labeled as "20' sidewalk and landscape easement," as shown on the site plan referenced in Condition 1 herein and per the applicant's agreement of purchase and sale.
19. All utilities in the interior of the development shall be placed underground.

20. The existing pole sign on the property shall be removed during the land development process.
21. 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, as shown on the site plan referenced in Condition 1 herein. The location of said entrances are subject to the sight distance and spacing requirements to the standards of the Georgia Department of Transportation.
22. Owner/Developer shall install a six foot (6') wide sidewalk and ten foot (10') landscape strip along the entire frontage of Mountain Industrial Boulevard.
23. 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, as shown on the site plan referenced in Condition 1, and subject to the approval of the Georgia Department of Transportation. Hardwood trees shall be planted for the required street trees.
24. Owner/Developer shall install pedestrian street lighting along Mountain Industrial Boulevard and Hugh Howell Road, as required by City of Tucker code, Section 46-1336.
25. Owner/Developer shall install deceleration lanes at all proposed driveways on Hugh Howell Road and on Mountain Industrial Boulevard, as shown on the site plan referenced in Condition 1 herein.
26. Owner/Developer shall construct a left turn lane into the full access driveway on Hugh Howell Road, as shown on the site plan referenced in Condition 1 herein, subject to the approval of the Tucker City Engineer and the Georgia Department of Transportation.
27. 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 as shown on the site plan referenced in Condition 1, 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.
28. Owner/Developer shall dedicate at no cost to the City of Tucker ten feet (10') of right-of-way as measured from the existing right-of-way along Mountain Industrial Boulevard from Hugh Howell Road north to the southernmost curb cut as shown on the site plan referenced in Condition 1.
29. Owner/Developer shall construct a westbound right turn lane along Hugh Howell Road onto Mountain Industrial Boulevard as shown on the site plan referenced in Condition 1 at no expense to the City of Tucker, subject to the approval of the Tucker City Engineer and the Georgia Department of Transportation.
30. Owner/Developer shall provide a bus shelter along Hugh Howell Road, in coordination with and per MARTA's approval.

31. 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. Applicant may relocate or reconfigure the eastern interparcel access from what is shown on the site plan referenced in Condition 1 herein.
32. 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.
33. Owner/Developer shall comply with City and State requirements regarding stream buffers.
34. Owner/Developer shall comply with Section 22-34 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. Street trees as described in Conditions 22 and 23 and "off-site" trees installed within the sidewalk and landscape easement described in Condition 18 shall count toward this requirement.
35. Water and sewer approval is required by the DeKalb County Department of Watershed Management.
36. The area of land subject to the rezoning and concurrent variances shall be restricted to the land mass outlined approximately in Exhibit A: Legal Description Tract 2 submitted on January 7, 2020 to the Community Development Department.
37. The following applies to all outdoor dining, including on-site and when authorized within a public right-of-way: All tables and chairs must be metal or wood; Each umbrella canopy must be a single solid color. Different umbrellas may have different colored canopies; No signage may be placed on tables, chairs, or umbrellas.
38. The community art feature and the design of the pocket park shall be subject to the review and reasonable approval of the Director of Planning and Zoning of the City of Tucker. The community art feature shall not represent or include signage for the development or any tenants.
39. Per the applicant's proposed restrictions, the following uses as defined by City of Tucker ordinance shall not be permitted: coliseum; funeral home; clubhouse; automobile or truck rental/leasing facilities; automobile brokerage; automobile or truck sales; automobile upholstery shop; boat sales; trailer or RV salesroom/lot; building, landscaping, heavy construction contractor offices; adult entertainment establishments; adult service facility; drive-in theater; fairground or amusement park; nightclub or late night establishment; outdoor recreation; fuel dealers; bus or rail stations; heliport; adult day care center; animal shelter; check cashing establishment; multi-warehouse; outdoor storage; furniture upholstery or repair; contractor heavy construction; heavy equipment repair service or trade; taxi,

ambulance or limousine service, dispatching or storage.

40. The City of Tucker shall have the right to install traffic improvements that directly relate to this development on the subject property or within the right-of-way abutting this property or any property that is connected with inter-parcel connectivity. The Owner/Developer shall cooperate with the City of Tucker Public Works Department on traffic improvements. A monetary contribution of \$225,000, for traffic management or safety improvements related to this development, shall be arranged prior to the Land Disturbance Permit issuance and shall be paid concurrently with Land Disturbance Permit issuance.

Department CommentsARBORIST

The plan as presented will eliminate 7 parking spaces that are now between the restaurant and the bank. It looks like the dumpster will take away a portion of the sidewalk.

CITY ENGINEER

The required transportation improvements including the westbound right turn lane, relocation of the traffic signal pole, trail along Hugh Howell Road, sidewalk along Mountain Industrial Boulevard, and streetscaping need to be completed prior to the issuance of a Certificate of Occupancy.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

No comments.

DEKALB COUNTY FIRE MARSHAL OFFICE

Based on the information provided, my comments are as follows:

- Hydrant distribution and spacing shall be in accordance with International Fire Code Appendix C.
- Fire apparatus access roads shall be in accordance with IFC Appendix D.
- Fire Department Connection(s) shall be remote and not attached to the building. FDC shall be located within 100 feet of a fire hydrant, marked by signage, and protected from vehicle impact.
- All fire lines and size shall be clearly shown on Site/Utility plans.
- Fire access road widths shall be shown on the plans.

DEKALB COUNTY SCHOOLS

Not applicable.

