



**City of Flowery Branch
City Council Meeting
Thursday, August 19, 2021, 6:00 PM
City of Flowery Branch City Hall
5410 West Pine Street, Flowery Branch, GA 30542**



CALL WORK SESSION TO ORDER:

PLEDGE OF ALLEGIANCE:

UNFINISHED BUSINESS - WORK SESSION:

- Consider a request, submitted by Mr. Calvin Tanner, to operate an auto repair shop out of a residentially zoned property. The property is known as 5505 Gainesville Street.
[Staff report.pdf](#)
[2021-2022 CUP Conditions.pdf](#)
- First Reading of a rezoning request from JPC Design and Construction, LLC. to rezone a 2.08 +/- acre tract of land identified as 5512 McEver Road, tax parcel number 08099 000009, from NS (Neighborhood Shopping) to HB (Highway Business).
[Staff Report for JPC 5512 McEver Road .pdf](#)
[JPC McEver Application.pdf](#)
[Ordinance for JPC McEver Road.pdf](#)

NEW BUSINESS -WORK SESSION:

- Consider Beer and Wine License application for Convenience Stores Inc. dba JP Flowery Branch located at 5840 Phil Niekro Blvd.
[Executive Summary August 19, 2021.pdf](#)
[JP McEver Road Storefront.png](#)
[UPDATED SITE PLAN.pdf](#)

DEPARTMENT REPORTS: -

- a. City Manager Report
- b. City Clerk Report
- c. Finance Director Report
- d. Planning Department Report
- e. Police Report
- f. Attorney Report
- g. Council Report

ADJOURNMENT WORK SESSION:

VOTING SESSION AGENDA

CALL VOTING SESSION TO ORDER:

PUBLIC COMMENTS: - Please limit to two minutes

CONSENT AGENDA:

- Consider Beer and Wine License application for Convenience Stores Inc. dba JP Flowery Branch located at 5840 Phil Niekro Blvd.
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[JP McEver Road Storefront.png](#)
[UPDATED SITE PLAN.pdf](#)

UNFINISHED BUSINESS - VOTING SESSION:

- Consider a request, submitted by Mr. Calvin Tanner, to operate an auto repair shop out of a residentially zoned property. The property is known as 5505 Gainesville Street.
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- First Reading of a rezoning request from JPC Design and Construction, LLC. to rezone a 2.08 +/- acre tract of land identified as 5512 McEver Road, tax parcel number 08099 000009, from NS (Neighborhood Shopping) to HB (Highway Business).
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NEW BUSINESS - VOTING SESSION:

EXECUTIVE SESSION:

ADJOURNMENT:

If you have a disability or impairment and need special assistance please contact the City Clerk prior to the meeting at 770-967-6371 - Meeting agenda is subject to change



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consider a request, submitted by Mr. Calvin Tanner, to operate an auto repair shop out of a residentially zoned property. The property is known as 5505 Gainesville Street.

COUNCIL MEETING DATE: August 19, 2021

HISTORY:

A conditional use permit (CUP) was issued to Mr. Calvin Tanner to operate his auto and RV repair shop at 5505 Gainesville Street. This CUP expired on July 1, 2021. Mayor and Council allowed Mr. Tanner to operate at his home so he could take care of his ill father while searching for a permanent home for his business in a properly zoned district. Mr. Tanner has not found a proper location and has filed a new CUP application.

FACTS AND ISSUES:

At the Council meeting of August 2, 2021, Council voted to approve the first read of Mr. Tanner's request. Council instructed staff to condition it similar to the previously approved CUP (please see attached). If approved, the CUP would expire on June 30, 2022.

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

Approve as conditioned

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

Prepared by: Vickie Short

ATTACHMENTS

- [Staff report.pdf](#)
- [2021-2022 CUP Conditions.pdf](#)



Applicant: Mr. Calvin Tanner DBA Tanner's Auto and RV Service

Property Owner: Mr. Calvin Tanner

Subject Property: 5505 Gainesville Street; Parcel # 08112 019005

Request: Conditional Use Permit (CUP) to operate an auto repair shop in a residentially zoned property

Current Use: Residential

Character Area: Urban Residential

Code:

Per the City of Flowery Branch Zoning Ordinance home occupations are strictly limited to office use only. However, if an applicant wishes to operate a home occupation that is not an office, he/she has the ability to submit a request to operate under a conditional use permit.

Sec. 11.8. Home Occupation.

Home occupations may be established in a portion of a dwelling as provided in permitted uses requirements for the zoning districts established by this Zoning Ordinance. In districts where permitted, the following regulations shall apply to home occupations, and failure to meet one or more of these regulations at any time shall be unlawful and grounds for immediate revocation of business registration:

- (a) Use. The only allowed use for home occupation is office.
- (i) Modification by Conditional Use. Where an application for home occupation does not meet the strict terms of this Section, the provisions of this Section may be modified or varied by application filed by the property owner and approved by the City Council for a conditional use, according to procedures specified in Article 34 of this Zoning Ordinance. The Zoning Administrator may provide a recommendation whether or not the City Council should approve the application, and what if any conditions of approval are recommended.

Property:

The subject property is located at 5505 Gainesville Street; tax parcel identification number 08112 019005. The property is currently zoned Traditional Neighborhood District (TND).













CUP Requirements:

Sec. 34.7. Analysis Requirements.

Applications to amend the official zoning map and applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in this Section. A zoning map amendment or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or general welfare, and after consideration of the analysis requirements which may in individual cases be considered criteria relevant to Zoning Administrator in making recommendations and by the City Council in the decision-making process.

- (a) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. *The subject property lies within a residentially zoned area. The use (auto repair) is not suitable for the area.*
- (b) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property. *The subject property lies within the midst of a residential property. A commercial use at this location is not suitable and may adversely affect nearby properties.*
- (c) Whether the property to be affected by the proposal can be used in accordance with the existing regulations and has a reasonable economic use as currently zoned. *Currently zoned TND (traditional Neighborhood District) the current use (a single-family home) is suitable and serves the purpose of the zoning district.*
- (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. *Car repair at this location could potentially cause excessive or burdensome use of the streets because of tow truck use and more traffic due to customers coming in and out.*
- (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including but not limited to the character area map and future land use plan map. *The current character area for this site is "Urban Residential". Car repair, in this instance, is not in conformity with the comprehensive plan.*
- (f) 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 proposal. *As the downtown area is developed in accordance with the "Old Town" plan, more residential and retail uses will be implemented making auto repair even less desirable.*
- (g) Existing use(s) and zoning of the subject property and nearby properties. *The subject property is surrounded by residential zoned properties (CBD, TND, R1, and PUD). The Masonic Lodge is across the street from the subject property. Currently the Masonic Lodge is considered a legal non-conforming use. Basically, this means it was once an allowed use in*



the zoning district but currently is not inherently allowed (a CUP would be required if the Lodge were to try and locate within this zoning district ((R-1))).

- (h) Existing value of the property under the existing zoning district classification, the extent to which the property value of the subject property is diminished by the existing zoning district, and the value of the property under the proposed zoning district; if such information is provided by the applicant or can be discerned. This consideration may include the length of time the property has been vacant or unused as currently zoned and efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district classification. *N/A*
- (i) Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations *The use could potentially distract from current home values and could also potentially hamper new residential development in the "Old Town" area.*
- (j) The possible creation of an isolated zoning district unrelated to adjacent and nearby districts *A CUP does not create a new zoning designation, but the conditional approval of this use could potentially give the appearance of having a commercially zoned parcel in the midst of residentially zoned districts.*
- (k) Possible effects of the change in zoning district map, or change in use, on the character of a zoning district. *Allowing a commercial use to infiltrate a heavy residential area could potentially alter the character of the area as more non-residential uses could petition to locate there.*
- (l) The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. *Auto use can have environmental impacts. As a home-based business staff has not determined if there are impacts associated with this use at this location.*
- (m) The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme and the purposes of this Zoning Ordinance *Allowing an auto repair business in a heavy residential area does not comply with the overall purpose of the zoning ordinance. This location, being so close to the downtown, is particularly troubling.*



Staff Recommendation:

It is staff's recommendation that the CUP request to operate an auto repair shop as a home occupation submitted by Mr. Calvin Tanner should be denied.

CUP Request
Calvin Tanner
5505 Gainesville Street
August 19, 2021, Council Meeting

A public hearing and work session were held on Thursday, August 5, 2021, by City Council to consider the CUP request of Mr. Calvin Tanner. Mr. Tanner is requesting the permission from Council, per Section 11.8.(i) of the Flowery Branch ZO, to operate an auto and RV repair shop from his residence. Council may impose conditions associated with the permit if they choose to approve the request. At the meeting of August 5, Council requested staff provide some examples of possible relevant and appropriate conditions for the Tanner case. Council requested conditions that would restrict the amount of time (if approved) the permit would be valid without being reviewed for compliance. Council wanted to ensure the permit was conditioned to in a manner that would keep the residential appearance of the home and the surrounding area. Council asked staff to provide other conditions staff felt would be useful if the permit would be approved. Therefore, at this time staff would like to submit the following conditions for Council to consider if in fact they vote in favor of approving the CUP.

1. **Time Limit.** The CUP request is a zoning land use decision and is therefore inherently tied directly to the property not the individual property owner. The CUP is valid for 5505 Gainesville Street no matter who owns the property. Council may be confident in Mr. Tanner's ability to run a safe, secure, and clean business but if the business is sold the CUP is still valid. Therefore, it is extremely important to put a specific time limit on the CUP. City of Flowery Branch occupational tax licenses run through the FB fiscal year – starting July 1. An easy way to save staff time and to keep the process simple and straightforward would be to set the expiration of the CUP at the same time as the occupational tax license expires. The CUP would therefore expire on June 30th, 2022. This would allow Mr. Tanner time to pay for the equipment he has purchased for his business and allow him time to find a space that is properly zoned for this type of business (HB, M1, M2).
2. **Property Appearance** The subject property is currently zoned for residential use and the appearance of the home and property should reflect this zoning classification. Therefore, staff recommends the following conditions pertaining to exterior appearance:
 - A. No more than two additional vehicles (meaning vehicles that are not owned and operated by Mr. Tanner or his family) may be parked anywhere on the premises. Cars may be kept in the garage located on Mr. Tanner's property.
 - B. All vehicles must be fully operational, insured and properly registered.
 - C. No signage of any kind will be allowed on the premises nor will any vehicular signage be permitted.
 - D. No additional buildings of any kind shall be permitted to be placed or constructed on the subject property.
 - E. No outdoor storage of any kind shall be permitted on the subject property.
 - F. No additional lighting of any kind shall be allowed to be installed on the subject property.

- G. No tow trucks allowed to be on the subject property. The CUP is for repair only and does not allow the property to be used for anything above and beyond standard auto and RV repairs. A towing business is not approved as part of this CUP.
- H. All oil and other vehicular fluids must be disposed of off-site and shall not be allowed to be stored on the premises.
- I. Any proposed fencing must be approved by the Community Development Department prior to construction.
- J. Hours of operation shall be limited to 7:00AM to 9:00PM.

If any of these conditions are broken (witnessed by staff, photos provided by citizens, etc.) more than three times prior to the expiration date (June 30, 2022) the CUP will be terminated immediately.

This applies to each violation not a combination of violations. For example: a combination of a violation of condition C, D, and E would count as one strike for each condition- not a cumulative total of three strikes. If condition C is violated and documented three times a fourth documented violation would mean the CUP would be revoked.



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: First Reading of a rezoning request from JPC Design and Construction, LLC. to rezone a 2.08 +/- acre tract of land identified as 5512 McEver Road, tax parcel number 08099 000009, from NS (Neighborhood Shopping) to HB (Highway Business).

COUNCIL MEETING DATE: August 19, 2021

HISTORY:

FACTS AND ISSUES:

JPC Design and Construction wishes to rezone 5512 McEver Road (parcel #08099 000009) from Neighborhood Shopping (NS) to Highway Business (HB) with the intent to construct a fast-food restaurant with a drive thru. The zoning ordinance allows these types of establishments in HB but not in NS.

Schedule:

July 14 work session & public hearing

August 5 work session (if requested)

August 19 first vote

September 2 work session (if requested)

September 16 final vote

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

0

RECOMMENDATION:

Approve as conditioned.

SAMPLE MOTION:

I make a motion to approve the first read of ordinance 645.

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

Prepared by: Vickie Short

ATTACHMENTS

- [Staff Report for JPC 5512 McEver Road .pdf](#)
- [JPC McEver Application.pdf](#)
- [Ordinance for JPC McEver Road.pdf](#)



**Staff Report
JPC Rezoning Request
Ordinance 645**

Request

JPC Design and Construction wishes to rezone 5512 McEver Road (parcel #08099 000009) from Neighborhood Shopping (NS) to Highway Business (HB) with the intent to construct a fast-food restaurant with a drive thru. The zoning ordinance allows these types of establishments in HB but not in NS. Please see below.

Sec. 9.3. NS, Neighborhood Shopping District.

- (a) Purpose and Description. This zoning district is intended to implement the “commercial” designation of the future land use plan contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the “neighborhood commercial” character area established in the comprehensive plan.
- (b) Character. Neighborhood commercial districts are intended to provide areas for limited, small-scale commercial uses of a convenience nature serving nearby residential neighborhoods as opposed to a regional market. This district provides for attractive, non-auto related neighborhood businesses and services, with distinctive architectural features and a scale compatible with pedestrians and connected to adjacent residential neighborhoods. Uses within neighborhood commercial character areas generally occur within enclosed buildings with no outside storage and limited outdoor display of goods and merchandise. Pedestrian accessibility is promoted via sidewalks connected to nearby neighborhoods but uses are mostly reliant on the automobile for access. Nonetheless, buildings and developments are scaled to be compatible with and promote pedestrian activity. Entrances, frontages, and building façades are softened with landscaping and low-lying identification signs.
- (c) Permitted and Conditional Uses. Permitted and conditional uses shall be as provided in Table 9.1, “Permitted and Conditional Uses in Nonresidential Zoning Districts.” Auto-related, highway-oriented commercial uses are not permitted. With the exception of convenience stores with gasoline pumps, neighborhood commercial districts are not intended to permit or accommodate automotive uses or other types of more intensive highway business activities, or those uses that generate excessive traffic, noise, odors, pollution, safety hazards, or other adverse impacts which would detract from the desirability of adjacent properties for residential use.
- (d) Dimensional Requirements. Dimensional requirements shall be as provided in Table 9.2, “Dimensional Requirements in Nonresidential Zoning Districts.” Business establishments do not exceed 2,500 square feet in any one tenant space, to keep the bulk and intensity in scale



with the needs of adjacent neighborhoods. Open space is limited to suburban plazas or small open spaces. A three-story height limit is imposed.

Sec. 9.4. HB, Highway Business District.

- (a) **Purpose and Description.** This zoning district is intended to implement the “commercial” designation of the future land use plan contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the “activity center” and “mixed use” character areas established in the comprehensive plan. Centered at the interchange of Spout Springs Road and I-985, and also extending north and south along Hog Mountain Road, this zoning district will be an accessible center of businesses, services, and complementary uses, which may include traditional neighborhood development and mixed-use developments, contributing extensively to the economic base of the city.
- (b) **Character.** This district is dominated by commercial uses but also intended to accommodate mixed-use developments. A grid block pattern of streets (connected local network) is provided, along with sidewalks and street trees. Pedestrian accessibility is promoted, although most activity is via the automobile for access. Entrances, frontages, and building façades are softened with landscaping and low-lying identification signs.
- (c) **Permitted and Conditional Uses.** Permitted and conditional uses shall be as provided in Table 9.1, “Permitted and Conditional Uses in Nonresidential Zoning Districts.” The widest possible range of uses is contemplated in this zoning district, except for industry and single-family, detached or manufactured homes. This character area is the proper place for big box retail, shopping centers, lodging and auto-related uses.
- (d) **Dimensional Requirements.** Dimensional requirements shall be as provided in Table 9.2, “Dimensional Requirements in Nonresidential Zoning Districts.”

Use	O-P	INST	NS	HB	CBD	M-1	M-2
Live/work unit	C	X	C	C	P	P	P
Lodging service (hotel, motel, motor hotel, inn)	X	C	X	P	P	X	X
Logging yard	X	X	X	X	X	X	P
Lumber yard	X	X	X	C	X	P	P
Machine shop	X	X	X	P	X	P	P
Manufactured home, “Class A”	X	X	X	X	X	X	X
Manufactured home other than “Class A”	X	X	X	X	X	X	X
Manufactured home park	X	X	X	X	X	X	X
Manufacturing, ceramics	X	X	X	X	X	C	P
Manufacturing, cosmetics or toiletries	X	X	X	X	X	P	P
Manufacturing, coating of cans, coils, fabrics, vinyl, metal furniture, appliance surfaces, wire, paper, and flat wood paneling	X	X	X	X	X	C	C



Manufacturing, electronics, camera, or photographic or communication equipment	X	X	X	X	X	P	P
Manufacturing, instrument assembly	X	X	X	X	X	P	P
Manufacturing, metal products	X	X	X	X	X	C	P
Manufacturing, pharmaceuticals and medical supplies	X	X	X	X	X	P	P
Manufacturing, textiles	X	X	X	X	X	P	P
Manufacturing, wood products	X	X	X	X	X	P	P
Manufacturing, processing, and assembling, within buildings, not otherwise specified	X	X	X	X	X	C	C
Marina	X	C	X	P	X	X	X
Materials recovery facility	X	X	X	X	X	X	C
Micro brewery	X	X	X	X	P	P	P
Mixed use building or development	C	X	P	P	P	C	X
Museum	P	P	P	P	P	P	P
Office	P	P	P	P	P	P	P
Office-warehouse	X	X	X	C	X	P	P
Open air business	X	X	X	P	C	C	C
Open storage yard (principal use)	X	X	X	C	X	P	P
Package Store	X	X	P	P	X	P	P
Parking deck or structures, on-site or off-site	C	C	X	P	C	C	C
Parking lot, off-site	P	P	P	P	C	P	P
Personal service establishment	C	C	P	P	P	P	P
Petroleum bulk storage site	X	X	X	X	X	X	P
Power plant, private	X	X	X	X	X	X	C
Public or semi-public use	P	P	P	P	P	P	P
Rail yard	X	C	X	X	X	X	P
Railroad freight terminal	X	C	X	X	X	X	P
Recreational vehicle park	X	X	X	C	X	X	X
Recovered materials processing facility	X	X	X	X	X	X	C
Recycling center	X	X	X	X	X	C	C
Restaurant, excluding drive-ins or drive through facilities and fast-food restaurants as defined	X	C	P	P	P	P	P
Restaurant, including drive-ins or drive through facilities and fast-food restaurants as defined	X	X	X	P	X	C	C
Retail trade establishment, enclosed	X	X	P	P	P	P	P



Concept plan as submitted by applicant:



The pumps will remain as will the primary structure. The end unit will be demolished, and the restaurant built. The remaining suites will be renovated inside and out. Landscaping will be enhanced, and new signage will be installed. The property will connect to Flowery Branch sewer and may be able to add inter-parcel connectivity to the adjoining car wash because of the septic tank being removed.

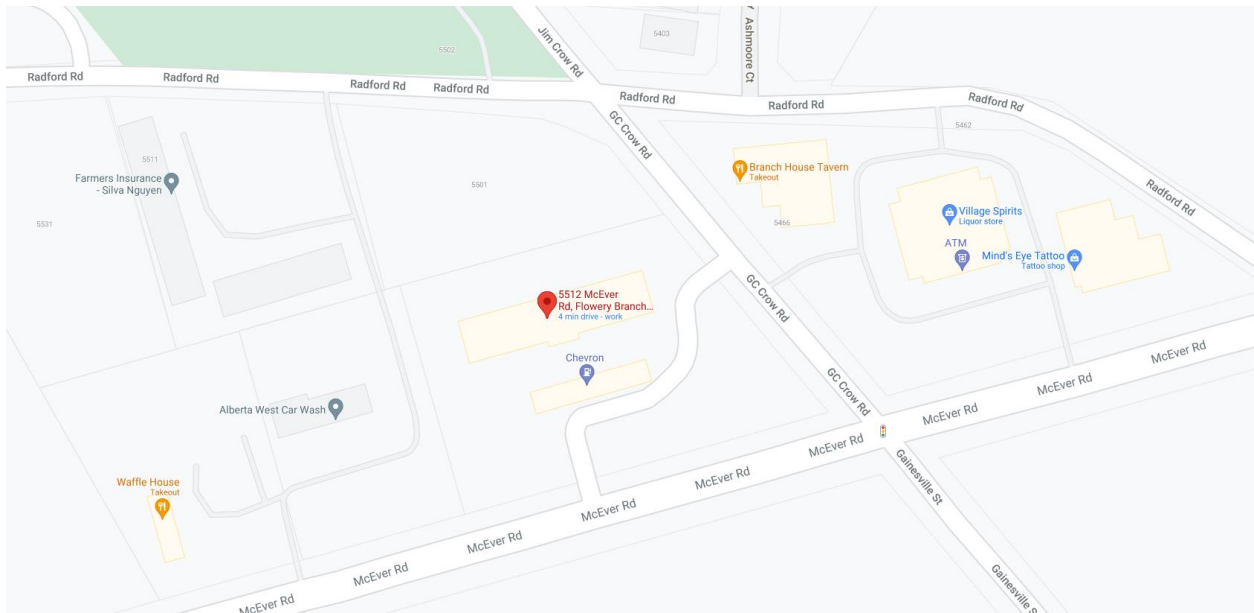
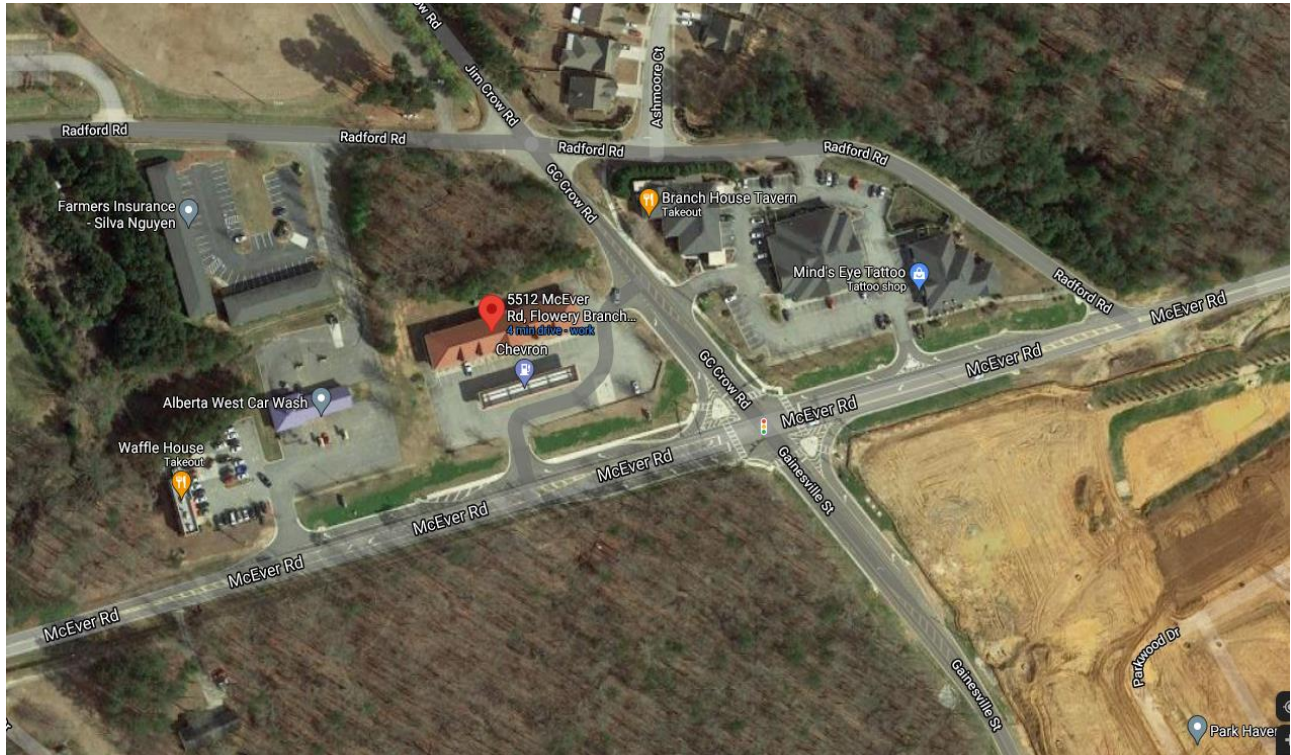


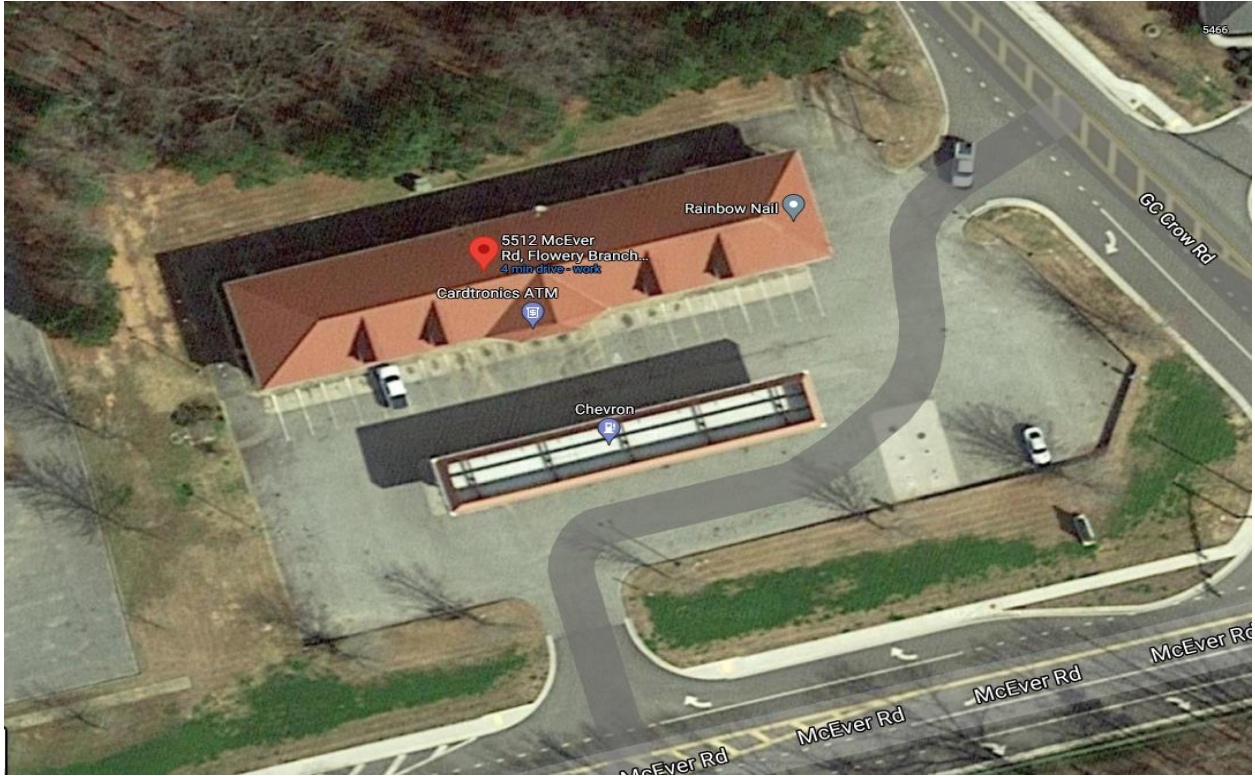
Zoning Map





Site

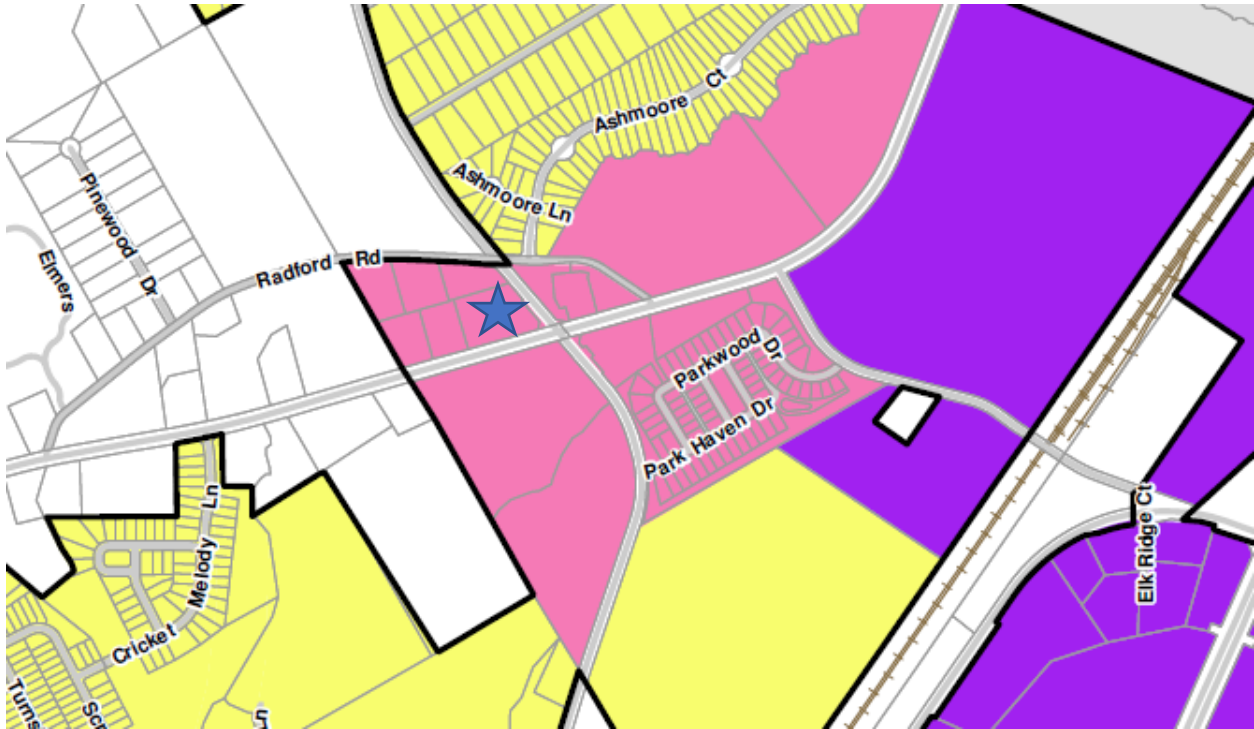






Comprehensive Plan

Mixed—use character area:



The proposed use is acceptable in the designated character area. A fast-food restaurant with a drive thru will be supported by the new and upcoming residential homes in the immediate area. Additionally, it will add a missing service to the area which includes the residential, sit down dining, public storage, retail, a car wash, and other proposed and existing commercial uses. The addition of the use and the improvement of the site will help to enhance and promote the mixed-use concept of this area.

Analysis

Flowery Branch Zoning Ordinance Article 37 Rezoning and Conditional Use Applications

Sec. 34.7. - Analysis Requirements.

Applications to amend the official zoning map and applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in this Section. A zoning map



amendment or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or general welfare, and after consideration of the analysis requirements which may in individual cases be considered criteria relevant to Zoning Administrator in making recommendations and by the Governing Body in the decision-making process.

Staff Response:

- (a) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. **Yes, the use is appropriate for this site and the surrounding area. It will help promote the mixed-use character area by adding a new component.**
- (b) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property. **The development will not adversely affect the area and will in fact enhance it.**
- (c) Whether the property to be affected by the proposal can be used in accordance with the existing regulations and has a reasonable economic use as currently zoned. **Yes, current zoning of NS (Neighborhood Shopping) is appropriate. However, rezoning to HB (Highway Business) will allow a new use(fast food with drive thru) to the area.**
- (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. **It is staff's opinion that the use will not create any unnecessary burdens.**
- (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including but not limited to the character area map and future land use plan map. **Currently, the Comprehensive Plan denotes this area as "Mixed-Use" and staff feels this rezoning. If approved, will help to better serve this designation.**
- (f) 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 proposal. **The proposed rezoning will result in upgraded facilities, enhanced landscaping, a new use, and the possibility for connectivity to the adjoining parcels.**
- (g) Existing use(s) and zoning of the subject property and nearby properties. **The proposed use will help diversify and enhance the area and will fit in with the surrounding proposed and current businesses and residences.**
- (h) Existing value of the property under the existing zoning district classification, the extent to which the property value of the subject property is diminished by the existing zoning district, and the value of the property under the proposed zoning district; if such information is provided by the applicant or can be discerned. This consideration may include the length of time the property has been vacant or unused as currently zoned and efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district classification. **Staff feels the value will be increased if this rezoning is approved as it will provide a new use and upgrade the parcel.**



- (i) Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations. *Staff does not feel that the proposed will be a deterrent but rather an enhancement to the surrounding area and a positive impact for the corridor.*
- (j) The possible creation of an isolated zoning district unrelated to adjacent and nearby districts. *No, the NS and HB districts can compliment one another and will not create an isolated district.*
- (k) Possible effects of the change in zoning district map, or change in use, on the character of a zoning district. *The proposed use will enhance the character of the existing district and surrounding area in staff's opinion.*
- (l) The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. *The development, if approved, will need to go through all the required development reviews to ensure all applicable codes and requirements are met.*
- (m) The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme and the purposes of this Zoning Ordinance. *The proposed development will enhance the surrounding area and meet the intent of the Zoning Ordinance.*

Recommendation

Staff recommends approval of the request. Prior to the final read, elevations and a landscape plan should be submitted. Additionally, as part of the rezoning ordinance, conditions of zoning will be placed on the parcel. These conditions will be solidified upon receipt of the additional information.



REZONING APPLICATION

Date: 4-26-21

Address of Request: 5512 McEver Rd., Flower Branch, GA
30542

Tax Map # 08099 000009 Current Zoning: NS

Is this site located within the boundaries of the historic district? NO

Currently a conforming use? yes

Any conditions of zoning, CUP's, etc.? _____

Applicant Information

Name: JPC Design and Construction, LLC - Jeremy Crosby

Address: 264 Alabama Blvd., Jackson GA 30233

E-mail address: Jcrosby@jonespetroleum.com

Phone number: 770-560-3527 cell

Signature: _____

Notary: _____

J. M. J.





Property owner information (if different than the applicant)

Property owner (please print): William B. Jones

Signature of property owner: [Signature]

Notary: [Signature]



Property Information

Tax Map Number: 08099 000009

Current Zoning: NS Total Acres: 2.08

Is this property located within the city-limits of Flowery Branch? yes

Proposed City of Flowery Branch Zoning: HB

Current Use: Chevron Convenience store and neighborhood shopping center

Please review the Flowery Branch Code of Ordinances, Appendix C, "Zoning Ordinance", Article 34, for complete requirements.

Please provide the following at time of submittal in (one hard copy and digitally):

- Legal description
- Current survey of property



- Site plan shall meet the requirements of the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.5
- Development statistics per the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.6
- Analysis requirements per the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.7
- Detailed description of request
- Conflict of interest disclosure (attached)
- Disclosure of campaign contributions (attached)
- Names and addresses of adjoining property owners
- Reasons for requesting rezoning
- Signed statement authorizing City of Flowery Branch staff and/or City Council to inspect the subject property

Conflict of Interest Disclosure

Identify all members of the City Council of the City of Flowery Branch and Employees of the City of Flowery Branch Community Development Department who

Have a property interest in the real property affected by this request

N/A

Have a financial interest (direct ownership interest) of the total assets or capital stock of a business entity where such ownership interest is more than 10% in any business entity which has a property interest in the real property affected by this request

N/A

Have a member of the family (spouse, mother, father, brother, sister, son or daughter) having a property financial interest as herein defined, in the real property affected by this request

N/A



Disclosure of Campaign Contributions

List below the names of local government officials of the City of Flowery Branch to whom campaign contributions were made, within two (2) years immediately preceding the filing of this application, which campaign contributions total \$250.00 or more or to whom gifts were made having a total value of \$250.00 or more.

Elected Officials Name

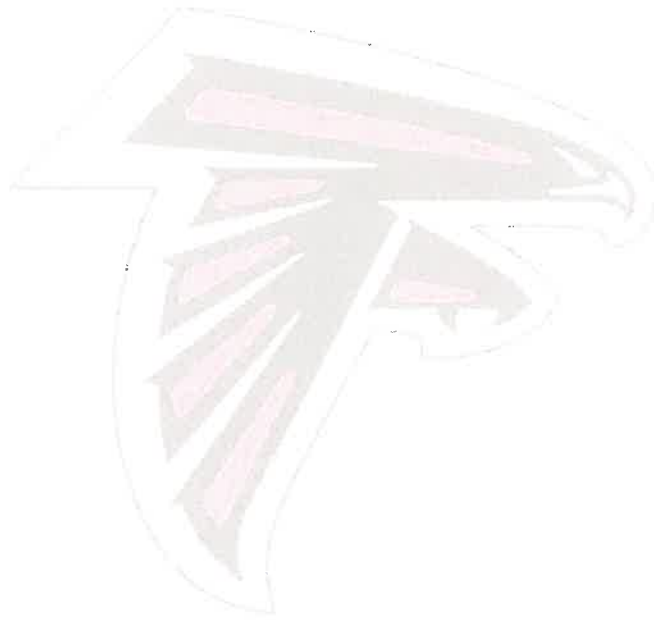
Amount of Description of Gift

N/A

CITY STAFF ONLY

Application Received By: _____

Date: _____ Total Fee: _____



JPC Design and Construction, LLC

264 Alabama Boulevard

P.O. 710

Jackson, Georgia 30233

5/13/2021

Mr. Rich Atkinson, Director

Flowery Branch Community Development

5410 Pine St.

Flowery Branch, Georgia 30542

RE: Analysis Letter for Rezoning Application, JPC Design and Construction LLC, 2.08 acres at 5512 McEver Road, City of Flowery Branch, Georgia. Tax Parcel number: 08099 000009.

Mr. Atkinson,

Please accept this Letter of Intent on behalf of JPC Design and Construction, LLC and William B. Jones. We are requesting Rezoning on 2.08 acres +/- currently zoned NS, to a HB zoning in order to add a fast food restaurant with drive thru on the end of the existing Shopping Center. The property is located at 5512 McEver Rd. in the City of Flowery Branch. The properties current use is a Chevron Convenience Store and Gas Station Neighborhood Shopping Center. Adjacent zoning to the property is NS to the north which is undeveloped, NS to the west which is developed with a car wash and Waffle House, NS to the east across Jim Crow Rd. which is developed with a restaurant, liquor store, and tattoo and vape shop, and to the south across McEver Rd. is undeveloped and zoned AR. In view of the surrounding properties we feel the use of a fast food with drive thru is suitable and will not adversely affect the existing use or adjacent properties.

The proposed use of a drive thru restaurant is not allowed in the NS zoning, and is only allowed in the HB zoning. Applicant believes that the existing use is reasonable as currently zoned but that the addition of a fast food restaurant in the area will provide a fast food option for residents in the area. Proposed use will not cause a burdensome use of existing streets, transportation facilities, utilities, or schools. Proposed use and existing use are commercial in nature and there are multiple uses in the shopping center currently, therefore applicant believes that the request is in conformity with the City's Zoning policy and intent of the Comprehensive Plan, and thus will not change the character of the area. Values of the property and surrounding properties should increase with the addition of a new fast food restaurant and should not be a deterrent to the value or improvement of adjacent property. Applicant also believes that a change in

zoning district will not isolate use or character but will simply add a drive thru option for the community in this area. There will be minimal impact on the environment and adjacent properties all of which directly adjoin via property lines are commercial. The overall zoning scheme and purpose of the Zoning Ordinance for this area is commercial in nature.

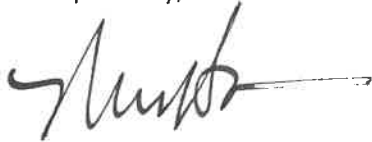
Included in our application is a concept plan. The plan shows the existing building which will remain, and the addition of the Hardees restaurant with drive thru configuration to the rear of the site, as well as new drive lanes, parking, and dumpster enclosures. Access to the site will remain as is from McEver Rd. and Jim Crow Rd.

The project will adhere to all City of Flowery Branch Development Standards. There should be no impact to the school system since this request is commercial in nature.

Mr. William B. Jones is the owner of the property and is also a partner in JPC Design and Construction, LLC along with Mr. Jeremy Crosby.

We thank you for your consideration in this matter.

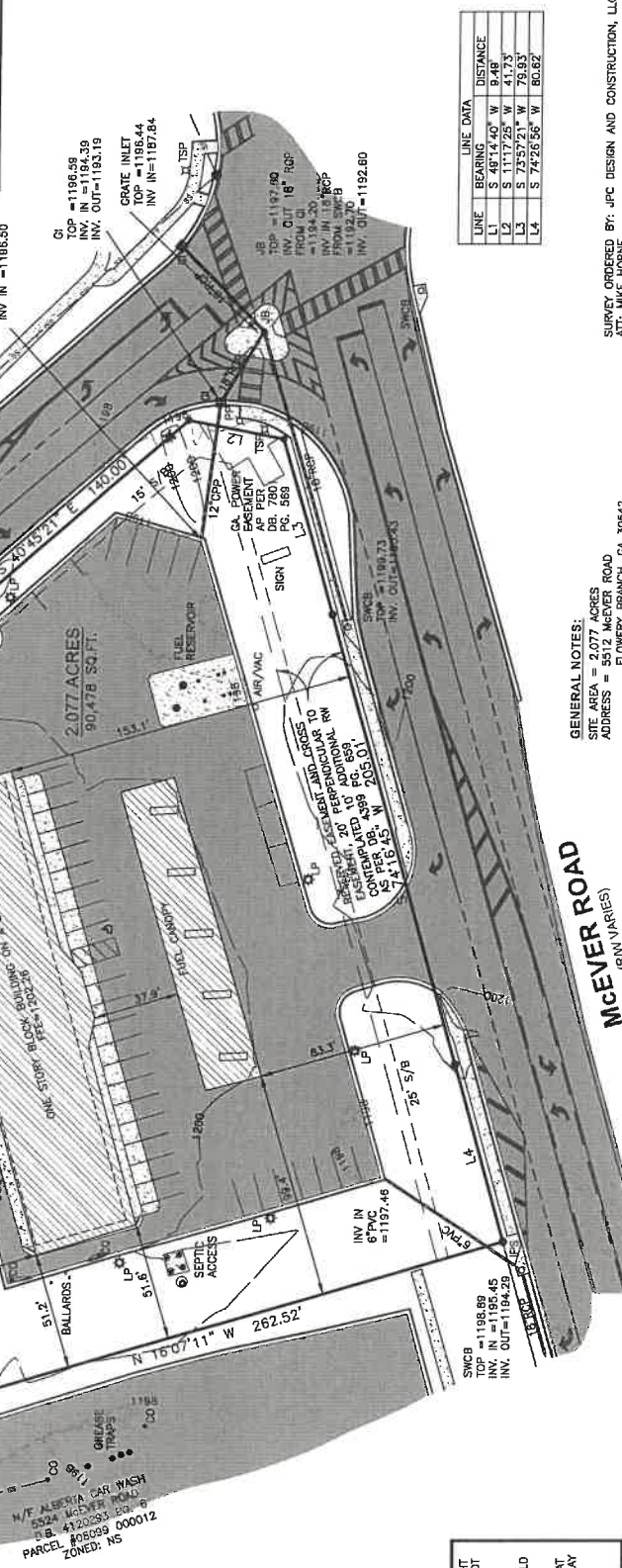
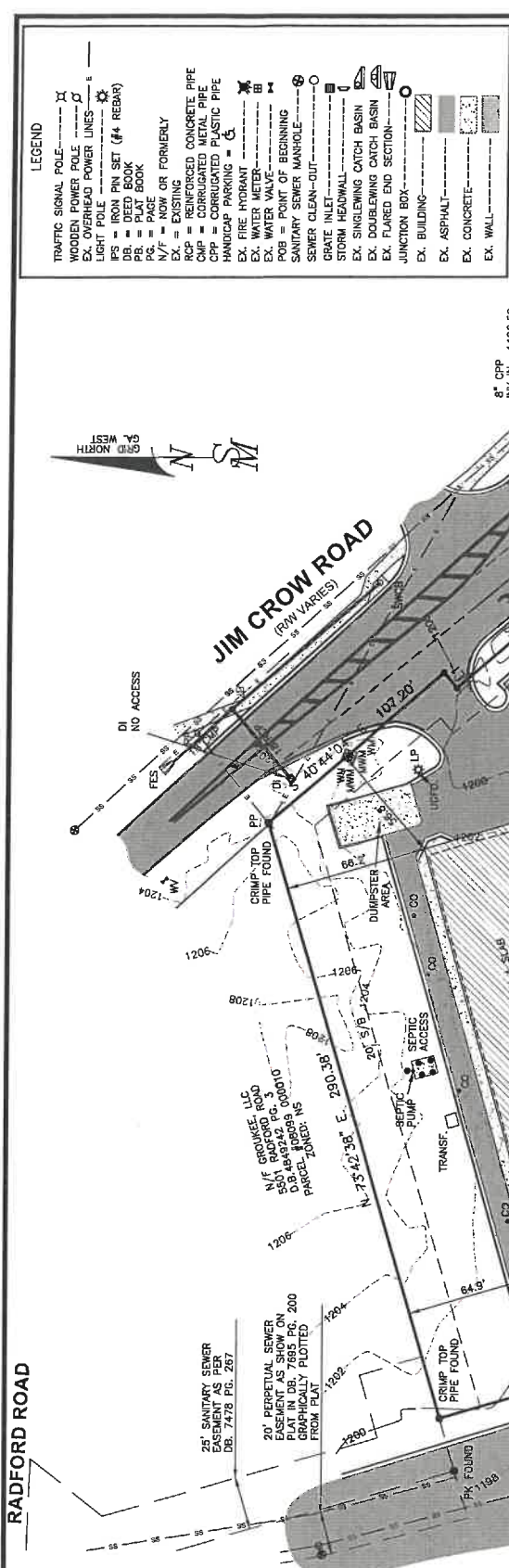
Respectfully,

A handwritten signature in black ink, appearing to read 'Mike Horne', with a long horizontal flourish extending to the right.

Mike Horne, Project Manager

JPC Design and Construction, LLC

RADFORD ROAD



LINE DATA

LINE	BEARING	DISTANCE
L1	S 49°14'40" W	9.48'
L2	S 11°17'25" W	41.75'
L3	S 73°37'21" W	79.93'
L4	S 74°28'56" W	80.62'

GRAPHIC SCALE = FEET

0' 40' 80' 120'

GENERAL NOTES:

SURVEY ORDERED BY: JPC DESIGN AND CONSTRUCTION, LLC
ATT: MIKE HORNE
FIELDWORK COMPLETED ON: 05/05/2021
ALL MEASUREMENTS MADE IN THE FIELD
AND NONE WERE FOUND WITHIN 300' OF SITE.

SURVEYING & PLANNING INC.
212 WEST CAMPBELL RD
McDONOUGH, GA 30253
PHONE: (770) 320-7955
FAX: (770) 320-7333
WWW.SURVEYING-PLANNING.COM

TOPOGRAPHIC SURVEY
JPC DESIGN & CONSTRUCTION LLC
2.077 ACRES
CITY OF FLOWERY BRANCH
LAND LOT 89, 8th DISTRICT
HALL COUNTY, GEORGIA

PROJECT NO.: B2021034
TOPOGRAPHIC SURVEY
DRAWN BY: PWF
SCALE: 1" = 40'
DATE: 05/13/2021



THIS PROPERTY IS SUBJECT TO ALL RIGHT OF WAY AND EASEMENTS SHOWN OR NOT SHOWN, RECORDED OR UNRECORDED.

THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT WHICH COULD REVEAL ENCUMBRANCES NOT SHOWN.

UTILITIES SHOWN ARE LOCATION VISIBLE AT TIME OF SURVEY. ADDITIONAL UTILITIES MAY BE LOCATED BY OTHER MEANS. SURVEYOR ACCEPTS NO RESPONSIBILITY FOR THE COMPLETENESS OF THIS DATA.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF 1" IN 100' PER ANGLE POINT AND WAS ADJUSTED USING THE COMPASS RULE.

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND WAS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 100,000+ FEET.

EQUIPMENT USED: TOPCON GTS-313.

AS PER OFFICIAL FLOOD INSURANCE MAPS BY THE F.E.M.A. THIS PROPERTY IS NOT LOCATED WITHIN A DESIGNATED FLOOD HAZARD AREA.

AS PER COMMUNITY - PANEL NUMBER 13138C0283G DATED: APRIL 04, 2018

SURVEYOR'S CERTIFICATION:

I, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED BY ME OR UNDER MY SUPERVISION, AND THAT THE SURVEYING AND PLANNING INC. HAS BEEN ADVISED OF ALL FACTS AND MATERIALS ARE CORRECTLY SHOWN.

JPC DESIGN & CONSTRUCTION, LLC
City of Flowery Branch

Check Number: **9040**
Check Date: May 4, 2021

9040

Check Amount: **\$500.00**

Invoice/Reference	Amount Paid
Rezoning App Rezoning Application-McEver Rd	500.00

JPC DESIGN & CONSTRUCTION, LLC
PO BOX 710
JACKSON, GA 30233-0020

UNITED BANK
JACKSON, GEORGIA
64-751/611

9040

PAY Five Hundred and 00/100 Dollars

DATE	AMOUNT
May 4, 2021	\$ 500.00

PAY TO THE ORDER OF
City of Flowery Branch
5517 Main St
Flowery Branch, GA 30542

Memo: Rezoning Application-McEver Rd

SECURITY FEATURES INCLUDED DETAILS ON BACK

||

5

||

JPC DESIGN & CONSTRUCTION, LLC
City of Flowery Branch

Check Number: **9040**
Check Date: May 4, 2021

9040

Check Amount: **\$500.00**

Invoice/Reference	Amount Paid
Rezoning App Rezoning Application-McEver Rd	500.00

Public Hearing Published 06/23/2021
Public Hearing 07/15/2021

First Reading 08/19/2021
Adopted 09/16/2021

ORDINANCE NO. 645

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF FLOWERY BRANCH GEORGIA BY REZONING A 2.08± ACRE TRACT OF REAL PROPERTY LOCATED AT 5512 MCEVER ROAD, IDENTIFIED AS TAX PARCEL IDENTIFICATION NO. 08099 000009, AS SHOWN ON EXHIBIT “A”, AS LEGALLY DESCRIBED ON EXHIBIT “B”, FROM NEIGHBORHOOD SHOPPING (NS) TO HIGHWAY BUSINESS (HB) SUBJECT TO THE CONDITIONS SET FORTH ON EXHIBIT “C”; PROVIDING FOR FINDINGS, SEVERABILITY AND AN EFFECTIVE DATE; REPEALING CONFLICTING ORDINANCES AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS, WBJ Global Indemnity, Inc. owns all that tract or parcel of land totaling 2.08+/- acres identified as tax identification No. 08099 000009; which is shown on Exhibit “A”; and legally described on Exhibit “B”; and

WHEREAS, specific conditions shall be imposed on the subject parcel as shown on Exhibit “C”; and

WHEREAS, the City Council of the City of Flowery Branch has considered the application of JPC Design and Construction, LLC., in conjunction with the standards set forth in Article 34 - Section 34.7 of Zoning Ordinance No. 348 of the City of Flowery Branch, Georgia; and

WHEREAS, the City Council held a public hearing at the meeting of July 15, 2021 duly noticed as prescribed by law and published in the Gainesville Times, regarding said application, as shall be set forth in the minutes of said meeting.

NOW THEREFORE, THE COUNCIL OF THE CITY OF FLOWERY BRANCH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS.

The City Council finds that the proposed rezoning from Neighborhood Shopping (NS) to Highway Business (HB) is consistent with the adopted standards for governing the exercise of the zoning power consistent with O.C.G.A. § 36-66-5 and requirements of the Zoning Ordinance as identified below.

1. The proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
2. The proposal is not expected to adversely affect the existing use or usability of adjacent or nearby property.

3. The property could be used in accordance with the existing regulations and has a reasonable economic use as currently zoned NS; however, an alternative use is appropriately considered.
4. The development if approved and constructed is not expected to result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
5. The proposal is in conformity with the policy and intent of the comprehensive plan and the character area map and future land use plan map.
6. The proposal is considered appropriate in view of existing use(s) and zoning of the subject property and nearby properties.
7. No determination has been made by staff with regard to the value differential between development under the current zonings as opposed to HB.
8. A proposed development will not be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.
9. There are no known adverse effects that would result from the change in zoning district map, or change in use, on the character of a zoning district.
10. Development as proposed is not expected to impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. Compliance with city subdivision and land development regulations will be required, which include but are not limited to soil erosion and sedimentation, stormwater, and flood damage prevention.

SECTION 2. LEGAL DESCRIPTION AND CONDITIONS.

The subject parcel, as shown on Exhibit “A” and as legally described in Exhibit “B”, shall be rezoned from Neighborhood Shopping (NS) to Highway Business (HB). Subject to conditions as set forth in Exhibit “C”. Said Exhibits are incorporated herein by reference as if fully set forth herein.

SECTION 3. AMENDMENT OF THE ZONING MAP.

This Ordinance is enacted as an amendment to the Zoning Map of Flowery Branch, Georgia. Accordingly, the Zoning Administrator is hereby authorized to update the Official Map consistent with Article 3 of the Zoning Ordinance.

SECTION 4. SEVERABILITY.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE.

The effective date of this Ordinance shall be upon adoption by the City Council of the City of Flowery Branch, Georgia.

SECTION 6. REPEALER.

All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Adopted this 16th day of September 2021.

James M. Miller, Mayor

ATTEST

Vickie Short, City Clerk

APPROVED AS TO FORM

E. Ronald Bennett, Jr., City Attorney

Exhibit "A"

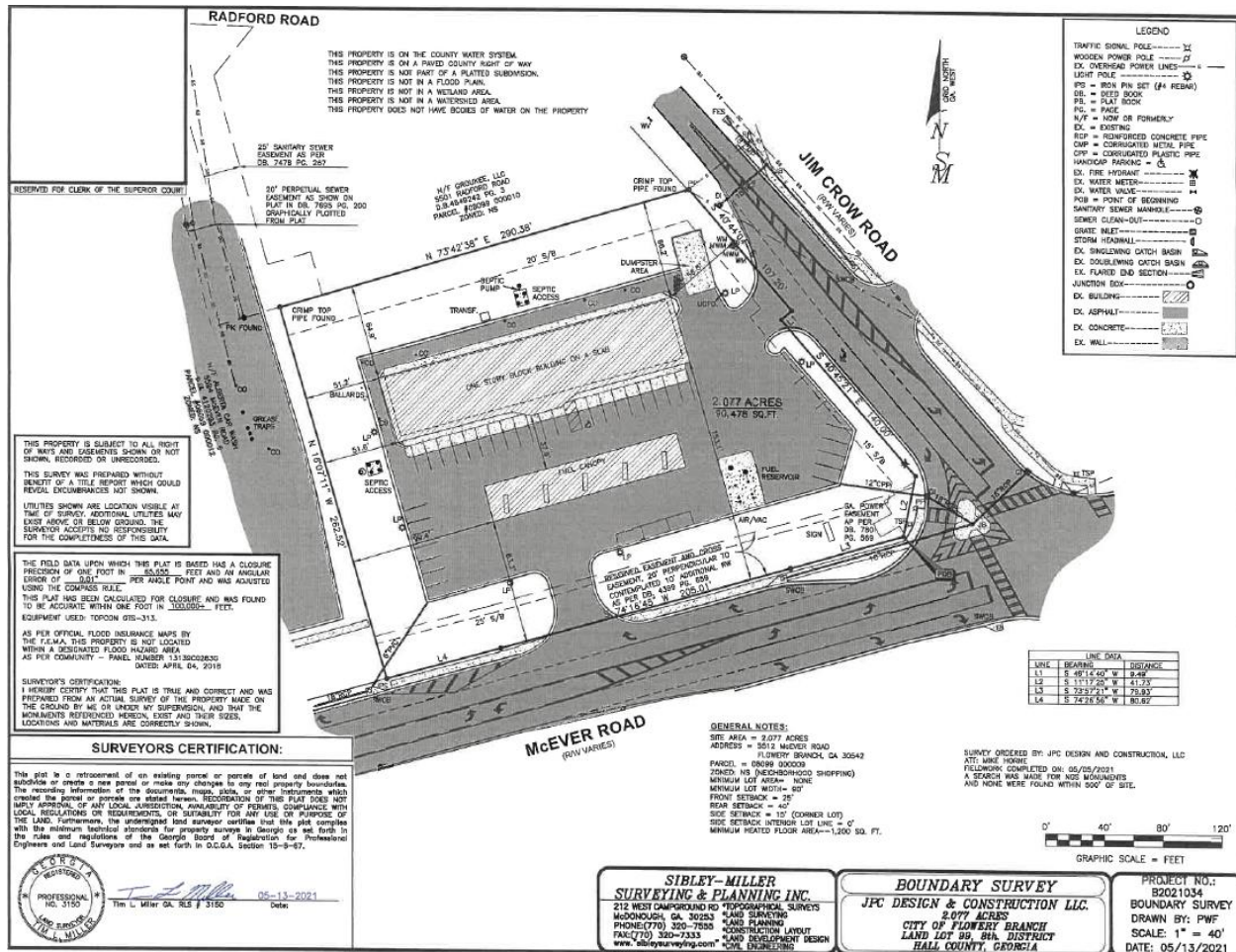


Exhibit "B"

Legal Description

PF #19

All that tract or parcel of land lying and being in Land Lot 99 of the 8th Land District, Hall County, Georgia, and being 2.132 acres as shown in a survey for RCJ Investments, LLLP (sic), dated January 7, 2000, with said property being more particularly described as follows:

BEGINNING at the intersection of the Southwestern right of way of Jim Crow Road, said road having a 60 foot right of way with the Northwest right of way of McEver Road, said road having an 80 foot right of way; thence Southwesterly along the Northwestern right of way of McEver Road South 72 degrees 51 minutes 18 seconds West 126.44 feet to an iron pin, South 73 degrees 10 minutes 42 seconds West 205.01 feet to an iron pin. South 73 degrees 20 minutes 53 seconds West 80.62 feet to an iron pin; thence departing said right of way North 17 degrees 13 minutes 14 seconds West 262.52 feet to an iron pin; thence North 72 degrees 36 minutes 35 seconds East 290.30 feet to an Iron pin located on the Southwestern right of way of Jim Crow Road; thence South 41 degrees 50 minutes 12 seconds East 292.36 feet along the Southwestern right of way of Jim Crow Road to an iron pin and the TRUE POINT OF BEGINNING.

The above referenced survey was prepared by Patton-Patton, Inc., Chris M. Patton, RLS No. 2647. TOGETHER WITH and benefiting the subject property, the easement created in that certain General Warranty Deed from Buckhorn Properties, Inc. to RCJ Investments, Inc., dated as of January 7, 2000, filed for record January 31, 2000 at 10:15 a.m., recorded in Deed Book 3621, Page 510, Records of Hall County, Georgia; as corrected by Corrective General Warranty Deed from Buckhorn Properties, Inc. to RCJ investments, MP, dated as of January 7, 2000, filed for record December 9, 2002 at 1:40 p.m. , recorded in Deed Book 4399, Page 658, aforesaid Records.

Exhibit “C”

Conditions of Zoning

1. Development shall be serviced by Flowery Branch sewer.
2. Existing structure will be updated with new paint and colors and shall match the design of the new structure. Any structural work or modification on existing the building will be permitted and reviewed by City staff.
3. New proposed restaurant shall substantially adhere to the rendering submitted to the City of Flowery Branch in July of 2021 and as shown below:



4. An overall sign plan for the entire development shall be submitted and approved by city staff. Said plan shall meet the requirements as shown in Article 19 of the Flowery Branch zoning ordinance.
5. A landscape plan shall be submitted and approved by staff at the time of land disturbance.
6. Inter-parcel connectivity with 5224 McEver Road, parcel identification 08099 000012, is encouraged if feasible.



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consider Beer and Wine License application for Convenience Stores Inc. dba JP Flowery Branch located at 5840 Phil Niekro Blvd.

COUNCIL MEETING DATE: August 19, 2021

HISTORY:

Convenience Stores Inc. (dba JP Flowery Branch) is the new owner of the gas station located at 5840 Phil Niekro Blvd. The prior location at this address was demolished to allow for a new gas station and Burger King.

FACTS AND ISSUES:

John Cape is listed as the Registered Agent. He currently lives within Hall County. Sheridan Peterson is listed as the manager of this location.

The application has been processed and reviewed and everything is in order for the council's approval.

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

Yes

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Vickie Short

ATTACHMENTS

- [Executive Summary August 19, 2021.pdf](#)
- [JP McEver Road Storefront.png](#)
- [UPDATED SITE PLAN.pdf](#)



**FLOWERY BRANCH CITY COUNCIL
EXECUTIVE SUMMARY**



SUBJECT: New Alcoholic Beverage License

DATE: 08/19/2021

(X) RECOMMENDATION

() POLICY DISCUSSION

BUDGET INFORMATION:

() STATUS REPORT

ANNUAL-No expenditure-Revenue Only

() OTHER

COMMISSION ACTION REQUESTED ON: August 19, 2021

PURPOSE: To allow the new owner of the gas station at 5840 Phil Niekro Blvd to sell packaged beer and wine.

HISTORY: Convenience Stores Inc. (dba JP Flowery Branch) is the new owner of the gas station located at 5840 Phil Niekro Blvd. The prior location at this address was demolished to allow for a new gas station and Burger King.

FACTS AND ISSUES:

John Cape is listed as the Registered Agent. He currently lives within Hall County. Sheridan Peterson is listed as the manager of this location.

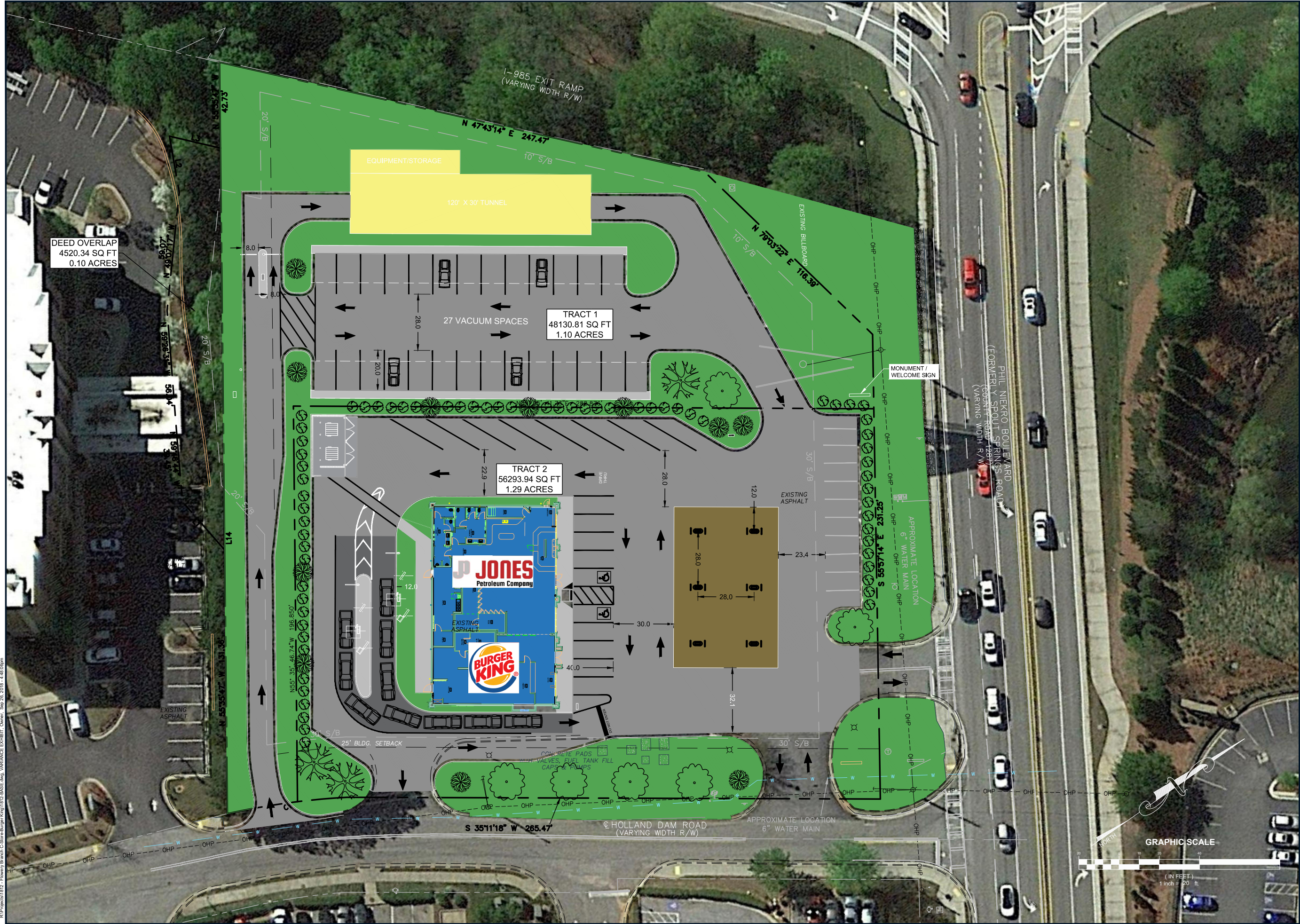
The application has been processed and reviewed and everything is in order for the council's approval.

OPTIONS: Approve or deny

RECOMMENDED SAMPLE MOTION: No motion required-on the Consent Agenda.

DEPARTMENT: Administration
Prepared by: Vickie Short







BURGER KING/CONVENIENCE STORE/CAR WASH
5840 PHIL NIEKRO BLVD., FLOWERY BRANCH, GA 30542
LAND LOT 114, 8TH LAND DISTRICT, HALL COUNTY
FOR
JPC DESIGN AND CONSTRUCTION, LLC

ROWLAND
ENGINEERING

478 (21) 7500 office
3312 Northside Drive, Ste. A100
Macon, GA 31210
www.rowland-engineering.com

DATE: 08-20-2018
PROJ NO: 1812

GEORGIA
REGISTERED PROFESSIONAL
ENGINEER
STEVEN A. ROWLAND

SITE PLAN

1 of 1

R:\Projects\1812 - Flowery Branch C-Store-Burger King\1812-BASE.dwg, VARIANCE EXHIBIT, Owner, Sep 26, 2018 - 4:48:05pm



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consider Beer and Wine License application for Convenience Stores Inc. dba JP Flowery Branch located at 5840 Phil Niekro Blvd.

COUNCIL MEETING DATE: August 19, 2021

HISTORY:

Convenience Stores Inc. (dba JP Flowery Branch) is the new owner of the gas station located at 5840 Phil Niekro Blvd. The prior location at this address was demolished to allow for a new gas station and Burger King.

FACTS AND ISSUES:

John Cape is listed as the Registered Agent. He currently lives within Hall County. Sheridan Peterson is listed as the manager of this location.

The application has been processed and reviewed and everything is in order for the council's approval.

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

Yes

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Vickie Short

ATTACHMENTS

- [Executive Summary August 19, 2021.pdf](#)
- [JP McEver Road Storefront.png](#)
- [UPDATED SITE PLAN.pdf](#)



**FLOWERY BRANCH CITY COUNCIL
EXECUTIVE SUMMARY**



SUBJECT: New Alcoholic Beverage License

DATE: 08/19/2021

(X) RECOMMENDATION

() POLICY DISCUSSION

BUDGET INFORMATION:

() STATUS REPORT

ANNUAL-No expenditure-Revenue Only

() OTHER

COMMISSION ACTION REQUESTED ON: August 19, 2021

PURPOSE: To allow the new owner of the gas station at 5840 Phil Niekro Blvd to sell packaged beer and wine.

HISTORY: Convenience Stores Inc. (dba JP Flowery Branch) is the new owner of the gas station located at 5840 Phil Niekro Blvd. The prior location at this address was demolished to allow for a new gas station and Burger King.

FACTS AND ISSUES:

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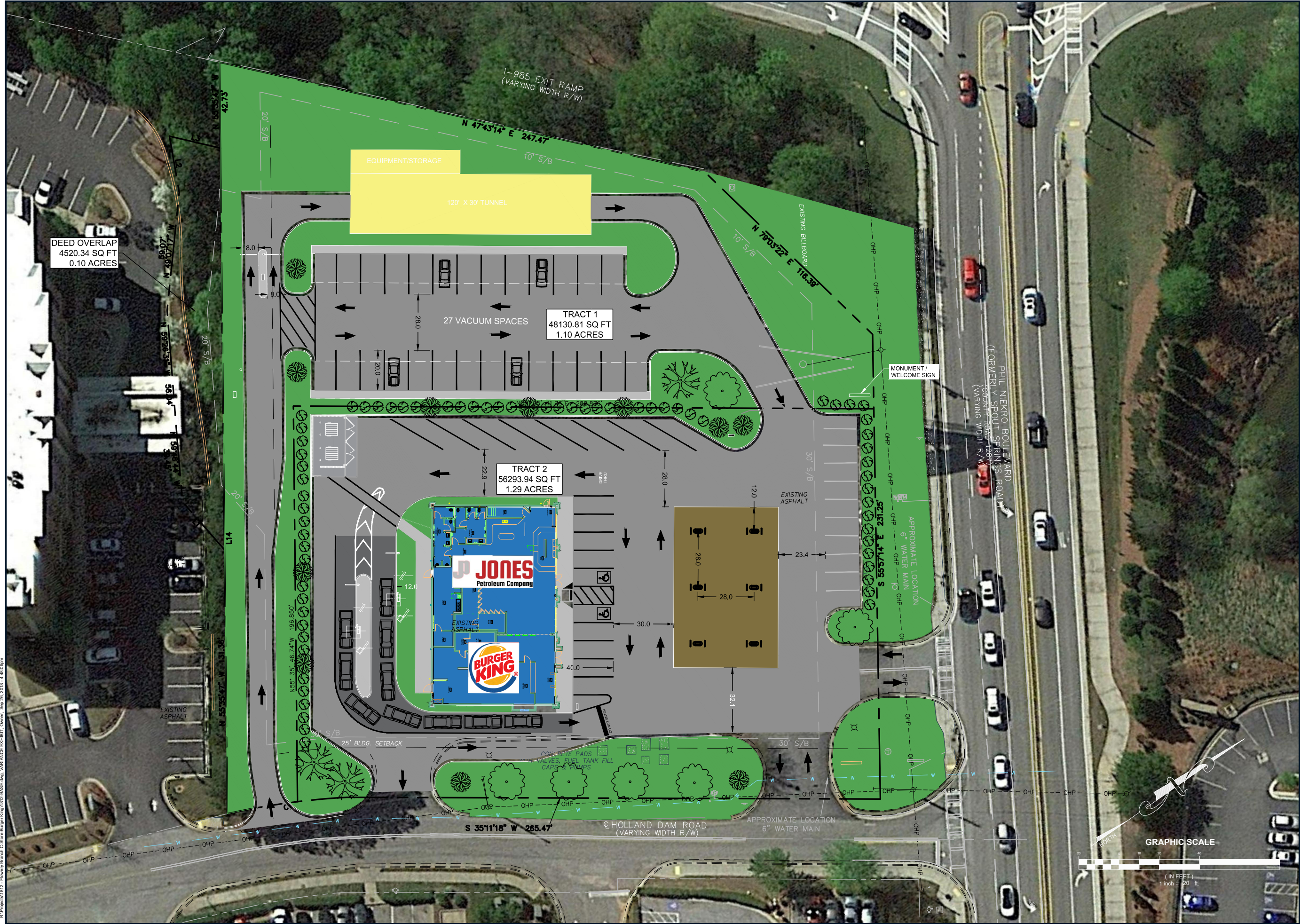
The application has been processed and reviewed and everything is in order for the council's approval.

OPTIONS: Approve or deny

RECOMMENDED SAMPLE MOTION: No motion required-on the Consent Agenda.

DEPARTMENT: Administration
Prepared by: Vickie Short







BURGER KING/CONVENIENCE STORE/CAR WASH
5840 PHIL NIEKRO BLVD., FLOWERY BRANCH, GA 30542
LAND LOT 114, 8TH LAND DISTRICT, HALL COUNTY
FOR
JPC DESIGN AND CONSTRUCTION, LLC

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478 (21) 7500 office
3312 Northside Drive, Ste. A100
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steven@rowland-engineering.com

DATE: 08-20-2018
PROJ NO: 1812

GEORGIA
REGISTERED PROFESSIONAL
ENGINEER
STEVEN A. ROWLAND

SITE PLAN

1 of 1



FLOWERY BRANCH CITY COUNCIL



EXECUTIVE SUMMARY

SUBJECT: Consider a request, submitted by Mr. Calvin Tanner, to operate an auto repair shop out of a residentially zoned property. The property is known as 5505 Gainesville Street.

COUNCIL MEETING DATE: August 19, 2021

HISTORY:

A conditional use permit (CUP) was issued to Mr. Calvin Tanner to operate his auto and RV repair shop at 5505 Gainesville Street. This CUP expired on July 1, 2021. Mayor and Council allowed Mr. Tanner to operate at his home so he could take care of his ill father while searching for a permanent home for his business in a properly zoned district. Mr. Tanner has not found a proper location and has filed a new CUP application.

FACTS AND ISSUES:

At the Council meeting of August 2, 2021, Council voted to approve the first read of Mr. Tanner's request. Council instructed staff to condition it similar to the previously approved CUP (please see attached). If approved, the CUP would expire on June 30, 2022.

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

Approve as conditioned

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

Prepared by: Vickie Short

ATTACHMENTS

- [Staff report.pdf](#)
- [2021-2022 CUP Conditions.pdf](#)



Applicant: Mr. Calvin Tanner DBA Tanner's Auto and RV Service

Property Owner: Mr. Calvin Tanner

Subject Property: 5505 Gainesville Street; Parcel # 08112 019005

Request: Conditional Use Permit (CUP) to operate an auto repair shop in a residentially zoned property

Current Use: Residential

Character Area: Urban Residential

Code:

Per the City of Flowery Branch Zoning Ordinance home occupations are strictly limited to office use only. However, if an applicant wishes to operate a home occupation that is not an office, he/she has the ability to submit a request to operate under a conditional use permit.

Sec. 11.8. Home Occupation.

Home occupations may be established in a portion of a dwelling as provided in permitted uses requirements for the zoning districts established by this Zoning Ordinance. In districts where permitted, the following regulations shall apply to home occupations, and failure to meet one or more of these regulations at any time shall be unlawful and grounds for immediate revocation of business registration:

- (a) Use. The only allowed use for home occupation is office.
- (i) Modification by Conditional Use. Where an application for home occupation does not meet the strict terms of this Section, the provisions of this Section may be modified or varied by application filed by the property owner and approved by the City Council for a conditional use, according to procedures specified in Article 34 of this Zoning Ordinance. The Zoning Administrator may provide a recommendation whether or not the City Council should approve the application, and what if any conditions of approval are recommended.

Property:

The subject property is located at 5505 Gainesville Street; tax parcel identification number 08112 019005. The property is currently zoned Traditional Neighborhood District (TND).













CUP Requirements:

Sec. 34.7. Analysis Requirements.

Applications to amend the official zoning map and applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in this Section. A zoning map amendment or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or general welfare, and after consideration of the analysis requirements which may in individual cases be considered criteria relevant to Zoning Administrator in making recommendations and by the City Council in the decision-making process.

- (a) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. *The subject property lies within a residentially zoned area. The use (auto repair) is not suitable for the area.*
- (b) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property. *The subject property lies within the midst of a residential property. A commercial use at this location is not suitable and may adversely affect nearby properties.*
- (c) Whether the property to be affected by the proposal can be used in accordance with the existing regulations and has a reasonable economic use as currently zoned. *Currently zoned TND (traditional Neighborhood District) the current use (a single-family home) is suitable and serves the purpose of the zoning district.*
- (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. *Car repair at this location could potentially cause excessive or burdensome use of the streets because of tow truck use and more traffic due to customers coming in and out.*
- (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including but not limited to the character area map and future land use plan map. *The current character area for this site is "Urban Residential". Car repair, in this instance, is not in conformity with the comprehensive plan.*
- (f) 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 proposal. *As the downtown area is developed in accordance with the "Old Town" plan, more residential and retail uses will be implemented making auto repair even less desirable.*
- (g) Existing use(s) and zoning of the subject property and nearby properties. *The subject property is surrounded by residential zoned properties (CBD, TND, R1, and PUD). The Masonic Lodge is across the street from the subject property. Currently the Masonic Lodge is considered a legal non-conforming use. Basically, this means it was once an allowed use in*



the zoning district but currently is not inherently allowed (a CUP would be required if the Lodge were to try and locate within this zoning district ((R-1))).

- (h) Existing value of the property under the existing zoning district classification, the extent to which the property value of the subject property is diminished by the existing zoning district, and the value of the property under the proposed zoning district; if such information is provided by the applicant or can be discerned. This consideration may include the length of time the property has been vacant or unused as currently zoned and efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district classification. *N/A*
- (i) Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations *The use could potentially distract from current home values and could also potentially hamper new residential development in the "Old Town" area.*
- (j) The possible creation of an isolated zoning district unrelated to adjacent and nearby districts *A CUP does not create a new zoning designation, but the conditional approval of this use could potentially give the appearance of having a commercially zoned parcel in the midst of residentially zoned districts.*
- (k) Possible effects of the change in zoning district map, or change in use, on the character of a zoning district. *Allowing a commercial use to infiltrate a heavy residential area could potentially alter the character of the area as more non-residential uses could petition to locate there.*
- (l) The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. *Auto use can have environmental impacts. As a home-based business staff has not determined if there are impacts associated with this use at this location.*
- (m) The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme and the purposes of this Zoning Ordinance *Allowing an auto repair business in a heavy residential area does not comply with the overall purpose of the zoning ordinance. This location, being so close to the downtown, is particularly troubling.*



Staff Recommendation:

It is staff's recommendation that the CUP request to operate an auto repair shop as a home occupation submitted by Mr. Calvin Tanner should be denied.

CUP Request
Calvin Tanner
5505 Gainesville Street
August 19, 2021, Council Meeting

A public hearing and work session were held on Thursday, August 5, 2021, by City Council to consider the CUP request of Mr. Calvin Tanner. Mr. Tanner is requesting the permission from Council, per Section 11.8.(i) of the Flowery Branch ZO, to operate an auto and RV repair shop from his residence. Council may impose conditions associated with the permit if they choose to approve the request. At the meeting of August 5, Council requested staff provide some examples of possible relevant and appropriate conditions for the Tanner case. Council requested conditions that would restrict the amount of time (if approved) the permit would be valid without being reviewed for compliance. Council wanted to ensure the permit was conditioned to in a manner that would keep the residential appearance of the home and the surrounding area. Council asked staff to provide other conditions staff felt would be useful if the permit would be approved. Therefore, at this time staff would like to submit the following conditions for Council to consider if in fact they vote in favor of approving the CUP.

1. **Time Limit.** The CUP request is a zoning land use decision and is therefore inherently tied directly to the property not the individual property owner. The CUP is valid for 5505 Gainesville Street no matter who owns the property. Council may be confident in Mr. Tanner's ability to run a safe, secure, and clean business but if the business is sold the CUP is still valid. Therefore, it is extremely important to put a specific time limit on the CUP. City of Flowery Branch occupational tax licenses run through the FB fiscal year – starting July 1. An easy way to save staff time and to keep the process simple and straightforward would be to set the expiration of the CUP at the same time as the occupational tax license expires. The CUP would therefore expire on June 30th, 2022. This would allow Mr. Tanner time to pay for the equipment he has purchased for his business and allow him time to find a space that is properly zoned for this type of business (HB, M1, M2).
2. **Property Appearance** The subject property is currently zoned for residential use and the appearance of the home and property should reflect this zoning classification. Therefore, staff recommends the following conditions pertaining to exterior appearance:
 - A. No more than two additional vehicles (meaning vehicles that are not owned and operated by Mr. Tanner or his family) may be parked anywhere on the premises. Cars may be kept in the garage located on Mr. Tanner's property.
 - B. All vehicles must be fully operational, insured and properly registered.
 - C. No signage of any kind will be allowed on the premises nor will any vehicular signage be permitted.
 - D. No additional buildings of any kind shall be permitted to be placed or constructed on the subject property.
 - E. No outdoor storage of any kind shall be permitted on the subject property.
 - F. No additional lighting of any kind shall be allowed to be installed on the subject property.

- G. No tow trucks allowed to be on the subject property. The CUP is for repair only and does not allow the property to be used for anything above and beyond standard auto and RV repairs. A towing business is not approved as part of this CUP.
- H. All oil and other vehicular fluids must be disposed of off-site and shall not be allowed to be stored on the premises.
- I. Any proposed fencing must be approved by the Community Development Department prior to construction.
- J. Hours of operation shall be limited to 7:00AM to 9:00PM.

If any of these conditions are broken (witnessed by staff, photos provided by citizens, etc.) more than three times prior to the expiration date (June 30, 2022) the CUP will be terminated immediately.

This applies to each violation not a combination of violations. For example: a combination of a violation of condition C, D, and E would count as one strike for each condition- not a cumulative total of three strikes. If condition C is violated and documented three times a fourth documented violation would mean the CUP would be revoked.



FLOWERY BRANCH CITY COUNCIL



EXECUTIVE SUMMARY

SUBJECT: First Reading of a rezoning request from JPC Design and Construction, LLC. to rezone a 2.08 +/- acre tract of land identified as 5512 McEver Road, tax parcel number 08099 000009, from NS (Neighborhood Shopping) to HB (Highway Business).

COUNCIL MEETING DATE: August 19, 2021

HISTORY:

FACTS AND ISSUES:

JPC Design and Construction wishes to rezone 5512 McEver Road (parcel #08099 000009) from Neighborhood Shopping (NS) to Highway Business (HB) with the intent to construct a fast-food restaurant with a drive thru. The zoning ordinance allows these types of establishments in HB but not in NS.

Schedule:

July 14 work session & public hearing

August 5 work session (if requested)

August 19 first vote

September 2 work session (if requested)

September 16 final vote

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

0

RECOMMENDATION:

Approve as conditioned.

SAMPLE MOTION:

I make a motion to approve the first read of ordinance 645.

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

Prepared by: Vickie Short

ATTACHMENTS

- [Staff Report for JPC 5512 McEver Road .pdf](#)
- [JPC McEver Application.pdf](#)
- [Ordinance for JPC McEver Road.pdf](#)



**Staff Report
JPC Rezoning Request
Ordinance 645**

Request

JPC Design and Construction wishes to rezone 5512 McEver Road (parcel #08099 000009) from Neighborhood Shopping (NS) to Highway Business (HB) with the intent to construct a fast-food restaurant with a drive thru. The zoning ordinance allows these types of establishments in HB but not in NS. Please see below.

Sec. 9.3. NS, Neighborhood Shopping District.

- (a) Purpose and Description. This zoning district is intended to implement the “commercial” designation of the future land use plan contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the “neighborhood commercial” character area established in the comprehensive plan.
- (b) Character. Neighborhood commercial districts are intended to provide areas for limited, small-scale commercial uses of a convenience nature serving nearby residential neighborhoods as opposed to a regional market. This district provides for attractive, non-auto related neighborhood businesses and services, with distinctive architectural features and a scale compatible with pedestrians and connected to adjacent residential neighborhoods. Uses within neighborhood commercial character areas generally occur within enclosed buildings with no outside storage and limited outdoor display of goods and merchandise. Pedestrian accessibility is promoted via sidewalks connected to nearby neighborhoods but uses are mostly reliant on the automobile for access. Nonetheless, buildings and developments are scaled to be compatible with and promote pedestrian activity. Entrances, frontages, and building façades are softened with landscaping and low-lying identification signs.
- (c) Permitted and Conditional Uses. Permitted and conditional uses shall be as provided in Table 9.1, “Permitted and Conditional Uses in Nonresidential Zoning Districts.” Auto-related, highway-oriented commercial uses are not permitted. With the exception of convenience stores with gasoline pumps, neighborhood commercial districts are not intended to permit or accommodate automotive uses or other types of more intensive highway business activities, or those uses that generate excessive traffic, noise, odors, pollution, safety hazards, or other adverse impacts which would detract from the desirability of adjacent properties for residential use.
- (d) Dimensional Requirements. Dimensional requirements shall be as provided in Table 9.2, “Dimensional Requirements in Nonresidential Zoning Districts.” Business establishments do not exceed 2,500 square feet in any one tenant space, to keep the bulk and intensity in scale



with the needs of adjacent neighborhoods. Open space is limited to suburban plazas or small open spaces. A three-story height limit is imposed.

Sec. 9.4. HB, Highway Business District.

- (a) **Purpose and Description.** This zoning district is intended to implement the “commercial” designation of the future land use plan contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the “activity center” and “mixed use” character areas established in the comprehensive plan. Centered at the interchange of Spout Springs Road and I-985, and also extending north and south along Hog Mountain Road, this zoning district will be an accessible center of businesses, services, and complementary uses, which may include traditional neighborhood development and mixed-use developments, contributing extensively to the economic base of the city.
- (b) **Character.** This district is dominated by commercial uses but also intended to accommodate mixed-use developments. A grid block pattern of streets (connected local network) is provided, along with sidewalks and street trees. Pedestrian accessibility is promoted, although most activity is via the automobile for access. Entrances, frontages, and building façades are softened with landscaping and low-lying identification signs.
- (c) **Permitted and Conditional Uses.** Permitted and conditional uses shall be as provided in Table 9.1, “Permitted and Conditional Uses in Nonresidential Zoning Districts.” The widest possible range of uses is contemplated in this zoning district, except for industry and single-family, detached or manufactured homes. This character area is the proper place for big box retail, shopping centers, lodging and auto-related uses.
- (d) **Dimensional Requirements.** Dimensional requirements shall be as provided in Table 9.2, “Dimensional Requirements in Nonresidential Zoning Districts.”

Use	O-P	INST	NS	HB	CBD	M-1	M-2
Live/work unit	C	X	C	C	P	P	P
Lodging service (hotel, motel, motor hotel, inn)	X	C	X	P	P	X	X
Logging yard	X	X	X	X	X	X	P
Lumber yard	X	X	X	C	X	P	P
Machine shop	X	X	X	P	X	P	P
Manufactured home, “Class A”	X	X	X	X	X	X	X
Manufactured home other than “Class A”	X	X	X	X	X	X	X
Manufactured home park	X	X	X	X	X	X	X
Manufacturing, ceramics	X	X	X	X	X	C	P
Manufacturing, cosmetics or toiletries	X	X	X	X	X	P	P
Manufacturing, coating of cans, coils, fabrics, vinyl, metal furniture, appliance surfaces, wire, paper, and flat wood paneling	X	X	X	X	X	C	C



Manufacturing, electronics, camera, or photographic or communication equipment	X	X	X	X	X	P	P
Manufacturing, instrument assembly	X	X	X	X	X	P	P
Manufacturing, metal products	X	X	X	X	X	C	P
Manufacturing, pharmaceuticals and medical supplies	X	X	X	X	X	P	P
Manufacturing, textiles	X	X	X	X	X	P	P
Manufacturing, wood products	X	X	X	X	X	P	P
Manufacturing, processing, and assembling, within buildings, not otherwise specified	X	X	X	X	X	C	C
Marina	X	C	X	P	X	X	X
Materials recovery facility	X	X	X	X	X	X	C
Micro brewery	X	X	X	X	P	P	P
Mixed use building or development	C	X	P	P	P	C	X
Museum	P	P	P	P	P	P	P
Office	P	P	P	P	P	P	P
Office-warehouse	X	X	X	C	X	P	P
Open air business	X	X	X	P	C	C	C
Open storage yard (principal use)	X	X	X	C	X	P	P
Package Store	X	X	P	P	X	P	P
Parking deck or structures, on-site or off-site	C	C	X	P	C	C	C
Parking lot, off-site	P	P	P	P	C	P	P
Personal service establishment	C	C	P	P	P	P	P
Petroleum bulk storage site	X	X	X	X	X	X	P
Power plant, private	X	X	X	X	X	X	C
Public or semi-public use	P	P	P	P	P	P	P
Rail yard	X	C	X	X	X	X	P
Railroad freight terminal	X	C	X	X	X	X	P
Recreational vehicle park	X	X	X	C	X	X	X
Recovered materials processing facility	X	X	X	X	X	X	C
Recycling center	X	X	X	X	X	C	C
Restaurant, excluding drive-ins or drive through facilities and fast-food restaurants as defined	X	C	P	P	P	P	P
Restaurant, including drive-ins or drive through facilities and fast-food restaurants as defined	X	X	X	P	X	C	C
Retail trade establishment, enclosed	X	X	P	P	P	P	P



Concept plan as submitted by applicant:



The pumps will remain as will the primary structure. The end unit will be demolished, and the restaurant built. The remaining suites will be renovated inside and out. Landscaping will be enhanced, and new signage will be installed. The property will connect to Flowery Branch sewer and may be able to add inter-parcel connectivity to the adjoining car wash because of the septic tank being removed.

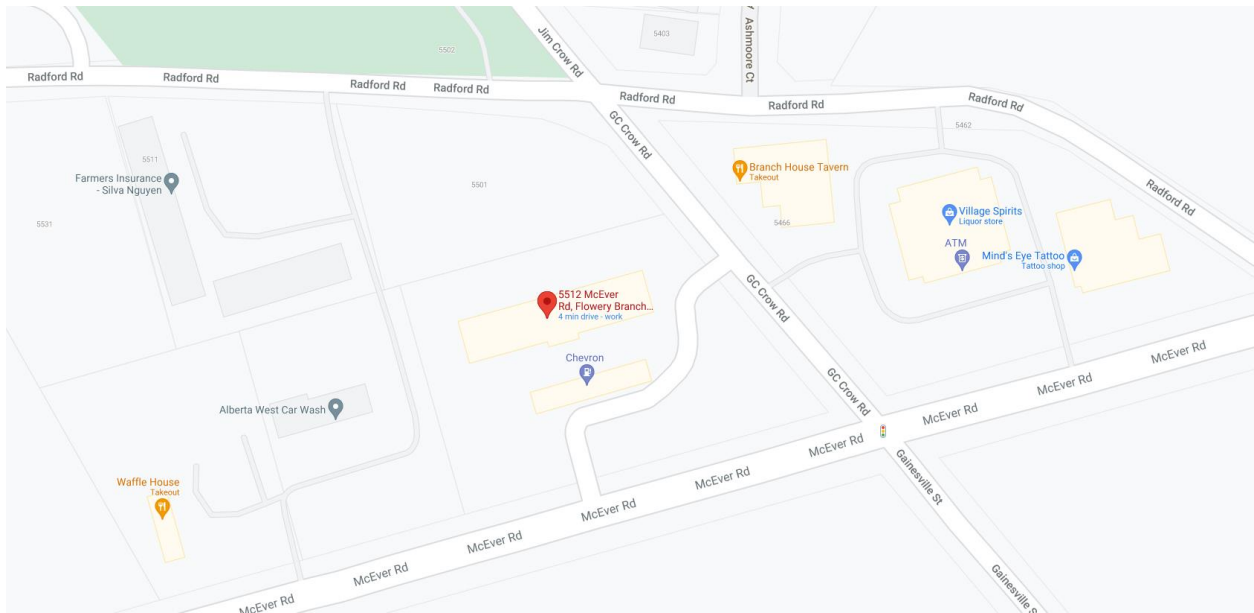
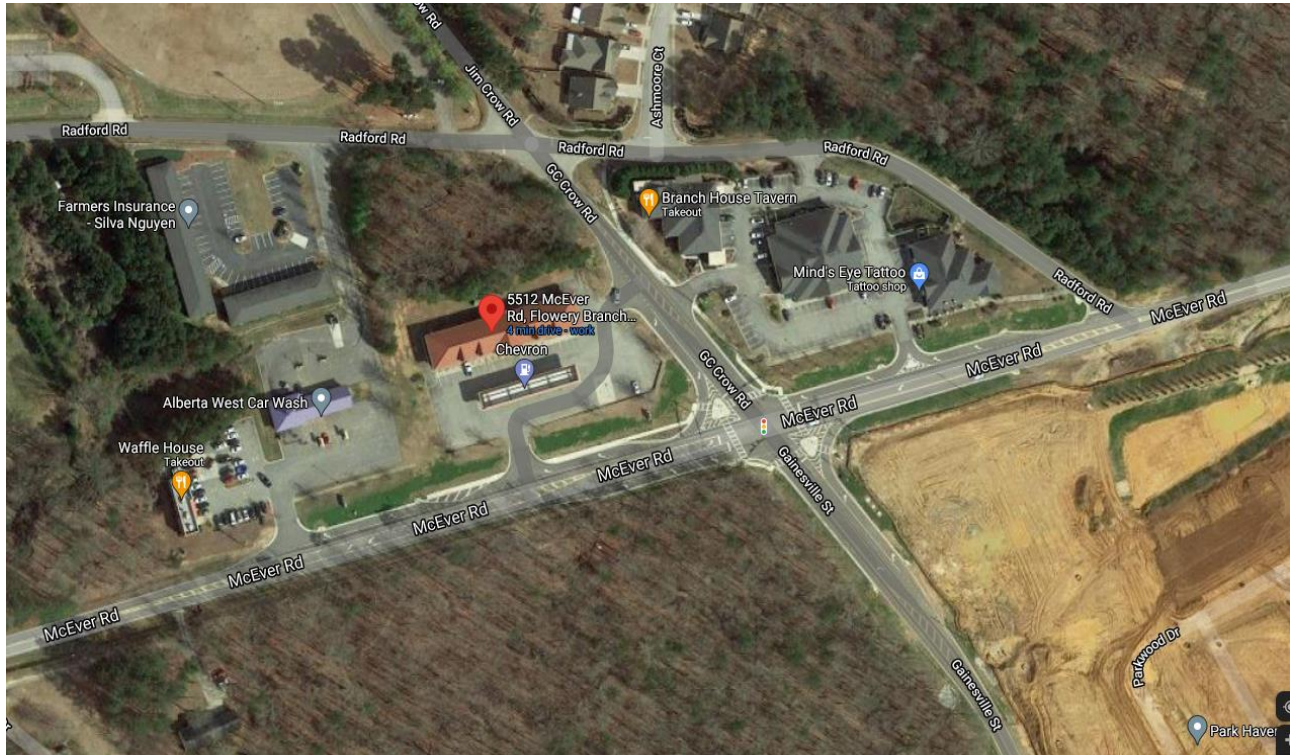


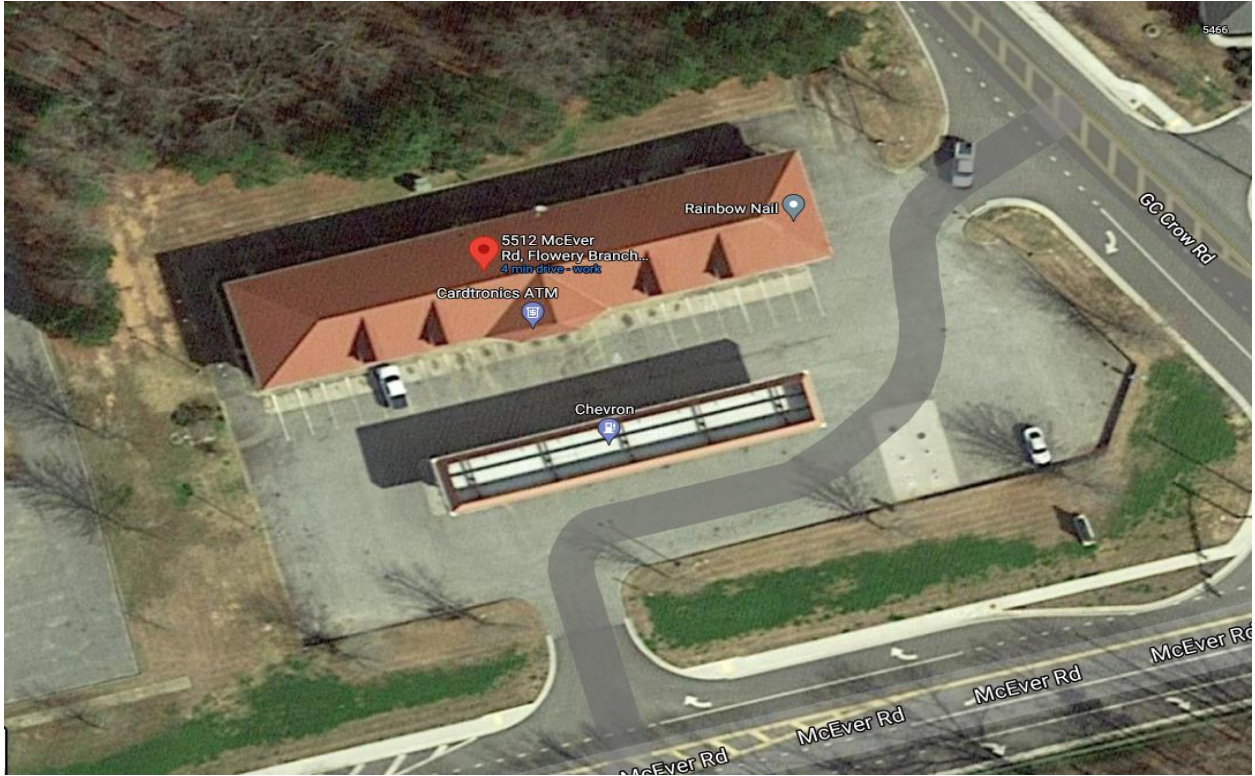
Zoning Map





Site

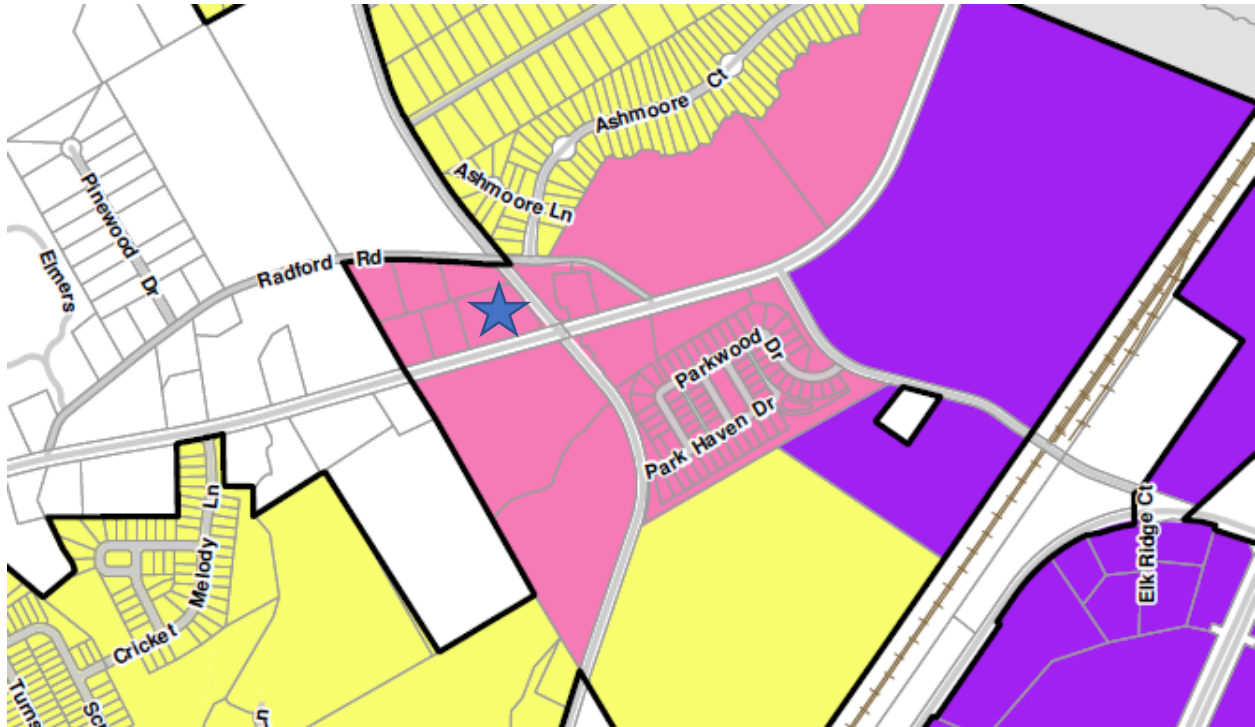






Comprehensive Plan

Mixed—use character area:



The proposed use is acceptable in the designated character area. A fast-food restaurant with a drive thru will be supported by the new and upcoming residential homes in the immediate area. Additionally, it will add a missing service to the area which includes the residential, sit down dining, public storage, retail, a car wash, and other proposed and existing commercial uses. The addition of the use and the improvement of the site will help to enhance and promote the mixed-use concept of this area.

Analysis

Flowery Branch Zoning Ordinance Article 37 Rezoning and Conditional Use Applications

Sec. 34.7. - Analysis Requirements.

Applications to amend the official zoning map and applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in this Section. A zoning map



amendment or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or general welfare, and after consideration of the analysis requirements which may in individual cases be considered criteria relevant to Zoning Administrator in making recommendations and by the Governing Body in the decision-making process.

Staff Response:

- (a) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. **Yes, the use is appropriate for this site and the surrounding area. It will help promote the mixed-use character area by adding a new component.**
- (b) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property. **The development will not adversely affect the area and will in fact enhance it.**
- (c) Whether the property to be affected by the proposal can be used in accordance with the existing regulations and has a reasonable economic use as currently zoned. **Yes, current zoning of NS (Neighborhood Shopping) is appropriate. However, rezoning to HB (Highway Business) will allow a new use(fast food with drive thru) to the area.**
- (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. **It is staff's opinion that the use will not create any unnecessary burdens.**
- (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including but not limited to the character area map and future land use plan map. **Currently, the Comprehensive Plan denotes this area as "Mixed-Use" and staff feels this rezoning. If approved, will help to better serve this designation.**
- (f) 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 proposal. **The proposed rezoning will result in upgraded facilities, enhanced landscaping, a new use, and the possibility for connectivity to the adjoining parcels.**
- (g) Existing use(s) and zoning of the subject property and nearby properties. **The proposed use will help diversify and enhance the area and will fit in with the surrounding proposed and current businesses and residences.**
- (h) Existing value of the property under the existing zoning district classification, the extent to which the property value of the subject property is diminished by the existing zoning district, and the value of the property under the proposed zoning district; if such information is provided by the applicant or can be discerned. This consideration may include the length of time the property has been vacant or unused as currently zoned and efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district classification. **Staff feels the value will be increased if this rezoning is approved as it will provide a new use and upgrade the parcel.**



- (i) Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations. *Staff does not feel that the proposed will be a deterrent but rather an enhancement to the surrounding area and a positive impact for the corridor.*
- (j) The possible creation of an isolated zoning district unrelated to adjacent and nearby districts. *No, the NS and HB districts can compliment one another and will not create an isolated district.*
- (k) Possible effects of the change in zoning district map, or change in use, on the character of a zoning district. *The proposed use will enhance the character of the existing district and surrounding area in staff's opinion.*
- (l) The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. *The development, if approved, will need to go through all the required development reviews to ensure all applicable codes and requirements are met.*
- (m) The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme and the purposes of this Zoning Ordinance. *The proposed development will enhance the surrounding area and meet the intent of the Zoning Ordinance.*

Recommendation

Staff recommends approval of the request. Prior to the final read, elevations and a landscape plan should be submitted. Additionally, as part of the rezoning ordinance, conditions of zoning will be placed on the parcel. These conditions will be solidified upon receipt of the additional information.



REZONING APPLICATION

Date: 4-26-21

Address of Request: 5512 McEver Rd., Flower Branch, GA
30542

Tax Map # 08099 000009 Current Zoning: NS

Is this site located within the boundaries of the historic district? NO

Currently a conforming use? yes

Any conditions of zoning, CUP's, etc.? _____

Applicant Information

Name: JPC Design and Construction, LLC - Jeremy Crosby

Address: 264 Alabama Blvd., Jackson GA 30233

E-mail address: Jcrosby@jonespetroleum.com

Phone number: 770-560-3527 cell

Signature: _____

Notary: _____





Property owner information (if different than the applicant)

Property owner (please print): William B. Jones

Signature of property owner: [Signature]

Notary: [Signature]



Property Information

Tax Map Number: 08099 000009

Current Zoning: NS Total Acres: 2.08

Is this property located within the city-limits of Flowery Branch? yes

Proposed City of Flowery Branch Zoning: HB

Current Use: Chevron Convenience store and neighborhood shopping center

Please review the Flowery Branch Code of Ordinances, Appendix C, "Zoning Ordinance", Article 34, for complete requirements.

Please provide the following at time of submittal in (one hard copy and digitally):

- Legal description
- Current survey of property



- Site plan shall meet the requirements of the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.5
- Development statistics per the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.6
- Analysis requirements per the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.7
- Detailed description of request
- Conflict of interest disclosure (attached)
- Disclosure of campaign contributions (attached)
- Names and addresses of adjoining property owners
- Reasons for requesting rezoning
- Signed statement authorizing City of Flowery Branch staff and/or City Council to inspect the subject property

Conflict of Interest Disclosure

Identify all members of the City Council of the City of Flowery Branch and Employees of the City of Flowery Branch Community Development Department who

Have a property interest in the real property affected by this request

N/A

Have a financial interest (direct ownership interest) of the total assets or capital stock of a business entity where such ownership interest is more than 10% in any business entity which has a property interest in the real property affected by this request

N/A

Have a member of the family (spouse, mother, father, brother, sister, son or daughter) having a property financial interest as herein defined, in the real property affected by this request

N/A



Disclosure of Campaign Contributions

List below the names of local government officials of the City of Flowery Branch to whom campaign contributions were made, within two (2) years immediately preceding the filing of this application, which campaign contributions total \$250.00 or more or to whom gifts were made having a total value of \$250.00 or more.

Elected Officials Name

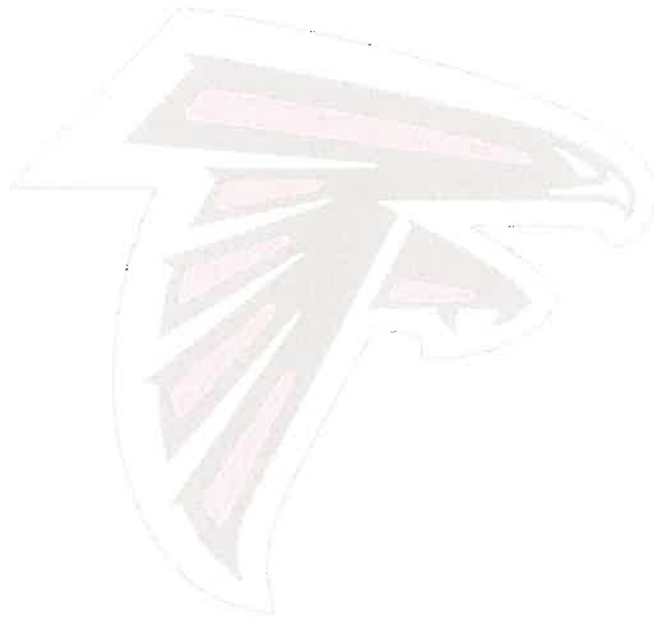
Amount of Description of Gift

N/A

CITY STAFF ONLY

Application Received By: _____

Date: _____ Total Fee: _____



JPC Design and Construction, LLC

264 Alabama Boulevard

P.O. 710

Jackson, Georgia 30233

5/13/2021

Mr. Rich Atkinson, Director

Flowery Branch Community Development

5410 Pine St.

Flowery Branch, Georgia 30542

RE: Analysis Letter for Rezoning Application, JPC Design and Construction LLC, 2.08 acres at 5512 McEver Road, City of Flowery Branch, Georgia. Tax Parcel number: 08099 000009.

Mr. Atkinson,

Please accept this Letter of Intent on behalf of JPC Design and Construction, LLC and William B. Jones. We are requesting Rezoning on 2.08 acres +/- currently zoned NS, to a HB zoning in order to add a fast food restaurant with drive thru on the end of the existing Shopping Center. The property is located at 5512 McEver Rd. in the City of Flowery Branch. The properties current use is a Chevron Convenience Store and Gas Station Neighborhood Shopping Center. Adjacent zoning to the property is NS to the north which is undeveloped, NS to the west which is developed with a car wash and Waffle House, NS to the east across Jim Crow Rd. which is developed with a restaurant, liquor store, and tattoo and vape shop, and to the south across McEver Rd. is undeveloped and zoned AR. In view of the surrounding properties we feel the use of a fast food with drive thru is suitable and will not adversely affect the existing use or adjacent properties.

The proposed use of a drive thru restaurant is not allowed in the NS zoning, and is only allowed in the HB zoning. Applicant believes that the existing use is reasonable as currently zoned but that the addition of a fast food restaurant in the area will provide a fast food option for residents in the area. Proposed use will not cause a burdensome use of existing streets, transportation facilities, utilities, or schools. Proposed use and existing use are commercial in nature and there are multiple uses in the shopping center currently, therefore applicant believes that the request is in conformity with the City's Zoning policy and intent of the Comprehensive Plan, and thus will not change the character of the area. Values of the property and surrounding properties should increase with the addition of a new fast food restaurant and should not be a deterrent to the value or improvement of adjacent property. Applicant also believes that a change in

zoning district will not isolate use or character but will simply add a drive thru option for the community in this area. There will be minimal impact on the environment and adjacent properties all of which directly adjoin via property lines are commercial. The overall zoning scheme and purpose of the Zoning Ordinance for this area is commercial in nature.

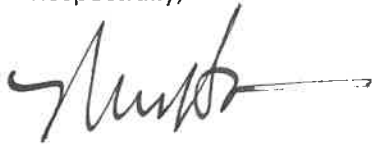
Included in our application is a concept plan. The plan shows the existing building which will remain, and the addition of the Hardees restaurant with drive thru configuration to the rear of the site, as well as new drive lanes, parking, and dumpster enclosures. Access to the site will remain as is from McEver Rd. and Jim Crow Rd.

The project will adhere to all City of Flowery Branch Development Standards. There should be no impact to the school system since this request is commercial in nature.

Mr. William B. Jones is the owner of the property and is also a partner in JPC Design and Construction, LLC along with Mr. Jeremy Crosby.

We thank you for your consideration in this matter.

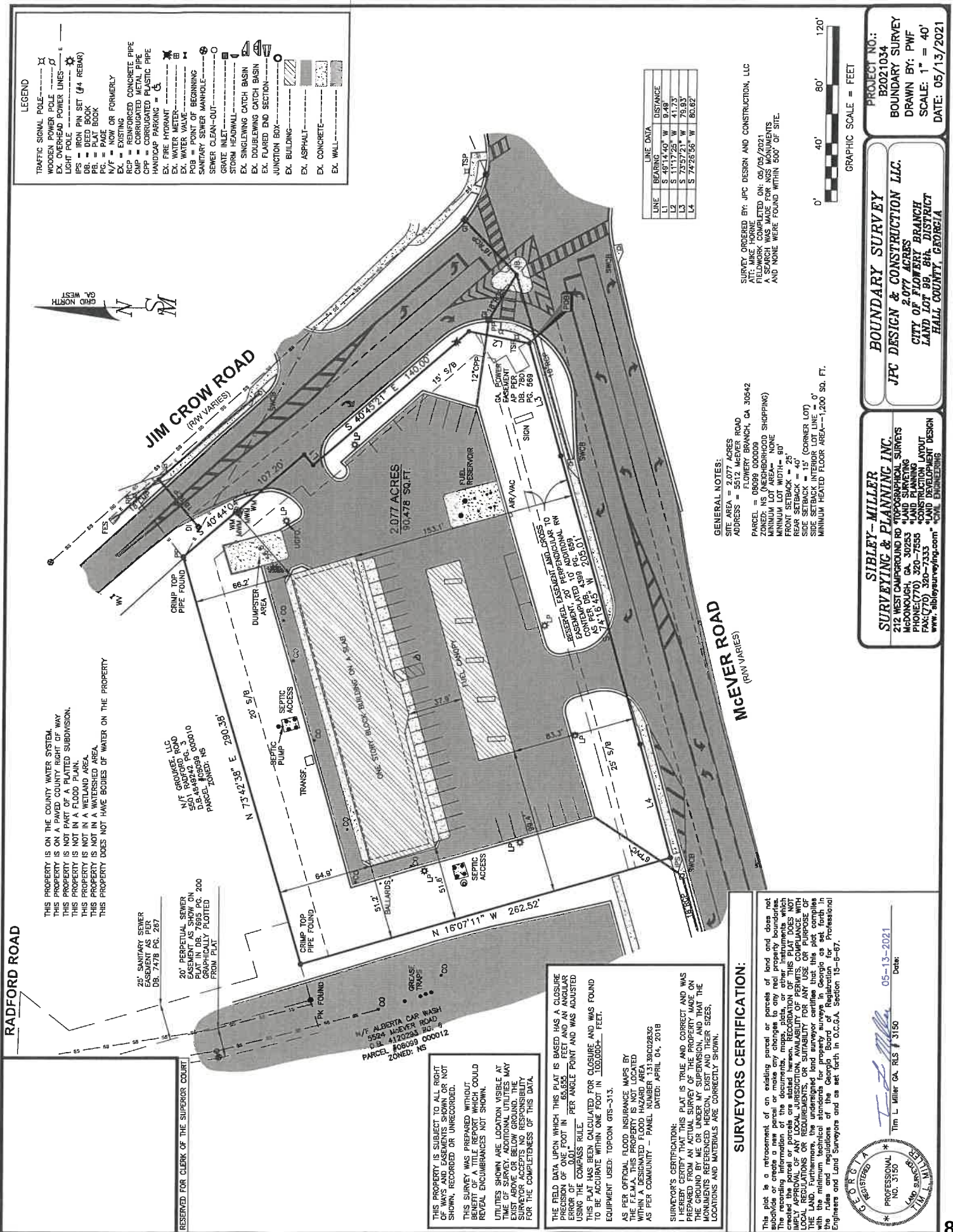
Respectfully,

A handwritten signature in black ink, appearing to read "Mike Horne", with a long horizontal flourish extending to the right.

Mike Horne, Project Manager

JPC Design and Construction, LLC





- LEGEND
- TRAFFIC SIGNAL POLE
 - WOODEN POWER POLE
 - EX. OVERHEAD POWER LINES
 - LIGHT POLE
 - IPS = IRON PIN SET (4 REBAR)
 - DB. = DEED BOOK
 - PL. = PLAT BOOK
 - PG. = PAGE
 - EX. = EXISTING
 - EX. = EXISTING OR FORMERLY
 - RCP = REINFORCED CONCRETE PIPE
 - CMP = CORRUGATED METAL PIPE
 - CPP = CORRUGATED PLASTIC PIPE
 - HANDICAP PARKING
 - EX. FIRE HYDRANT
 - EX. WATER VALVE
 - EX. SANITARY SEWER MANHOLE
 - SEWER CLEAN-OUT
 - STONE HEADWALL
 - EX. SINGLING CATCH BASIN
 - EX. DOUBLEWING CATCH BASIN
 - EX. FLORED END SECTION
 - JUNCTION BOX
 - EX. BUILDING
 - EX. ASPHALT
 - EX. CONCRETE
 - EX. WALL

LINE	BEARING	DISTANCE
L1	S 49°14'40" W	9.49
L2	S 11°17'25" W	41.73
L3	S 73°57'21" W	79.83
L4	S 74°28'56" W	80.62

SURVEY ORDERED BY: JPC DESIGN AND CONSTRUCTION, LLC
AT LITTLE ROCK, ARKANSAS
FIELDWORK COMPLETED ON: 05/05/2021
A SEARCH WAS MADE FOR NGS MONUMENTS
AND NONE WERE FOUND WITHIN 500' OF SITE.



PROJECT NO.: B2021034
BOUNDARY SURVEY
DRAWN BY: PWF
SCALE: 1" = 40'
DATE: 05/13/2021

BOUNDARY SURVEY
JPC DESIGN & CONSTRUCTION LLC
2.077 ACRES
CITY OF FLOWERY BRANCH
LAND LOT 98, 8th DISTRICT
HALL COUNTY, GEORGIA

SIBLEY-MILLER
SURVEYING & PLANNING INC.
212 WEST CAMPGROUND RD
MCDONOUGH, GA 30253
PHONE: (770) 320-7555
FAX: (770) 320-7333
www.sibley-miller.com

GENERAL NOTES:
SITE AREA = 2.077 ACRES
ADDRESS = 3512 MCEEVER ROAD
FLOWERY BRANCH, GA 30542
PARCEL = 08089 000009
ZONED: NS (NEIGHBORHOOD SHOPPING)
MINIMUM LOT WIDTH: NONE
FRONT SETBACK = 80'
REAR SETBACK = 25'
SIDE SETBACK = 15' (CORNER LOT)
SIDE SETBACK INTERIOR LOT LINE = 0'
MINIMUM HEATED FLOOR AREA = 1,200 SQ. FT.

THIS PROPERTY IS ON THE COUNTY WATER SYSTEM.
THIS PROPERTY IS NOT PART OF A PLATTED SUBDIVISION.
THIS PROPERTY IS NOT IN A FLOOD PLAIN.
THIS PROPERTY IS NOT IN A WETLAND AREA.
THIS PROPERTY DOES NOT HAVE BODIES OF WATER ON THE PROPERTY

N/F GROUNDS, LLC
5501 RADFORD RD
D.B. 48-000000
PARCEL ZONED: NS

25' SANITARY SEWER
EASEMENT AS PER
DB. 7478 PG. 267

RESERVED FOR CLERK OF THE SUPERIOR COURT

1/4 ALBERTA CAR WASH
3524 MCEEVER ROAD
D.B. 41-020293 PG. 9
PARCEL #08089 000012
ZONED: NS

THIS PROPERTY IS SUBJECT TO ALL RIGHT
OF WAY AND EASEMENTS SHOWN OR NOT
SHOWN, RECORDED OR UNRECORDED.
THIS SURVEY WAS PREPARED WITHOUT
BENEFIT OF A TITLE REPORT WHICH COULD
REVEAL ENCUMBRANCES NOT SHOWN.
UTILITIES SHOWN ARE LOCATIONS VISIBLE AT
THE TIME OF SURVEY. ADDITIONAL UTILITIES MAY
EXIST ABOVE OR BELOW GROUND. THE
SURVEYOR ACCEPTS NO RESPONSIBILITY
FOR THE COMPLETENESS OF THIS DATA.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE
PRECISION OF ONE FOOT IN 55,635 FEET AND AN ANGULAR
ERROR OF 0.01" PER ANGLE POINT AND WAS ADJUSTED
USING THE COMPASS RULE.
THE PLAT HAS BEEN CALCULATED FOR CLOSURE AND WAS FOUND
TO BE ACCURATE WITHIN ONE FOOT IN 100,000 FEET.
EQUIPMENT USED: TOPCON GTS-313.
AS PER OFFICIAL FLOOD INSURANCE MAPS BY
THE F.E.M.A., THIS PROPERTY IS NOT LOCATED
WITHIN A DESIGNATED FLOOD HAZARD AREA
AS PER COMMUNITY - PANEL DATED: APRIL 04, 2018

SURVEYOR'S CERTIFICATION:
I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS
PREPARED BY ME OR UNDER MY SUPERVISION AND THAT THE
MONUMENTS REFERENCED HEREON, EXIST AND THEIR SIZES,
LOCATIONS AND MATERIALS ARE CORRECTLY SHOWN.

SURVEYORS CERTIFICATION:

This plat is a retracement of an existing parcel or parcels of land and does not
subdivide or create a new parcel or make any changes to any real property boundaries.
The surveyor has no knowledge of any unrecorded easements or encumbrances which
created the parcel or parcels or the stated dimensions or area of this plat. THE
IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH
LOCAL ORDINANCES OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF
THE PLAT, IS THE RESPONSIBILITY OF THE SURVEYOR. THE SURVEYOR'S CERTIFICATION
WITH THE minimum technical standards for Professional Surveyors as set forth in the
rules and regulations of the Georgia Board of Registration for Professional
Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

05-13-2021
Date:
Tim L Miller GA. RLS # 3150



JPC DESIGN & CONSTRUCTION, LLC
City of Flowery Branch

Check Number: **9040**
Check Date: May 4, 2021

Check Amount: **\$500.00**

Invoice/Reference	Amount Paid
Rezoning App Rezoning Application-McEver Rd	500.00

JPC DESIGN & CONSTRUCTION, LLC
PO BOX 710
JACKSON, GA 30233-0020

UNITED BANK
JACKSON, GEORGIA
64-751/611

9040

PAY Five Hundred and 00/100 Dollars

DATE	AMOUNT
May 4, 2021	\$ 500.00

PAY
TO THE
ORDER
OF
City of Flowery Branch
5517 Main St
Flowery Branch, GA 30542

Memo: Rezoning Application-McEver Rd

SECURITY FEATURES INCLUDED DETAILS ON BACK

11

5

JPC DESIGN & CONSTRUCTION, LLC
City of Flowery Branch

Check Number: **9040**
Check Date: May 4, 2021

Check Amount: **\$500.00**

Invoice/Reference	Amount Paid
Rezoning App Rezoning Application-McEver Rd	500.00

Public Hearing Published 06/23/2021
Public Hearing 07/15/2021

First Reading 08/19/2021
Adopted 09/16/2021

ORDINANCE NO. 645

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF FLOWERY BRANCH GEORGIA BY REZONING A 2.08± ACRE TRACT OF REAL PROPERTY LOCATED AT 5512 MCEVER ROAD, IDENTIFIED AS TAX PARCEL IDENTIFICATION NO. 08099 000009, AS SHOWN ON EXHIBIT “A”, AS LEGALLY DESCRIBED ON EXHIBIT “B”, FROM NEIGHBORHOOD SHOPPING (NS) TO HIGHWAY BUSINESS (HB) SUBJECT TO THE CONDITIONS SET FORTH ON EXHIBIT “C”; PROVIDING FOR FINDINGS, SEVERABILITY AND AN EFFECTIVE DATE; REPEALING CONFLICTING ORDINANCES AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS, WBJ Global Indemnity, Inc. owns all that tract or parcel of land totaling 2.08+/- acres identified as tax identification No. 08099 000009; which is shown on Exhibit “A”; and legally described on Exhibit “B”; and

WHEREAS, specific conditions shall be imposed on the subject parcel as shown on Exhibit “C”; and

WHEREAS, the City Council of the City of Flowery Branch has considered the application of JPC Design and Construction, LLC., in conjunction with the standards set forth in Article 34 - Section 34.7 of Zoning Ordinance No. 348 of the City of Flowery Branch, Georgia; and

WHEREAS, the City Council held a public hearing at the meeting of July 15, 2021 duly noticed as prescribed by law and published in the Gainesville Times, regarding said application, as shall be set forth in the minutes of said meeting.

NOW THEREFORE, THE COUNCIL OF THE CITY OF FLOWERY BRANCH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS.

The City Council finds that the proposed rezoning from Neighborhood Shopping (NS) to Highway Business (HB) is consistent with the adopted standards for governing the exercise of the zoning power consistent with O.C.G.A. § 36-66-5 and requirements of the Zoning Ordinance as identified below.

1. The proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
2. The proposal is not expected to adversely affect the existing use or usability of adjacent or nearby property.

3. The property could be used in accordance with the existing regulations and has a reasonable economic use as currently zoned NS; however, an alternative use is appropriately considered.
4. The development if approved and constructed is not expected to result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
5. The proposal is in conformity with the policy and intent of the comprehensive plan and the character area map and future land use plan map.
6. The proposal is considered appropriate in view of existing use(s) and zoning of the subject property and nearby properties.
7. No determination has been made by staff with regard to the value differential between development under the current zonings as opposed to HB.
8. A proposed development will not be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.
9. There are no known adverse effects that would result from the change in zoning district map, or change in use, on the character of a zoning district.
10. Development as proposed is not expected to impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. Compliance with city subdivision and land development regulations will be required, which include but are not limited to soil erosion and sedimentation, stormwater, and flood damage prevention.

SECTION 2. LEGAL DESCRIPTION AND CONDITIONS.

The subject parcel, as shown on Exhibit “A” and as legally described in Exhibit “B”, shall be rezoned from Neighborhood Shopping (NS) to Highway Business (HB). Subject to conditions as set forth in Exhibit “C”. Said Exhibits are incorporated herein by reference as if fully set forth herein.

SECTION 3. AMENDMENT OF THE ZONING MAP.

This Ordinance is enacted as an amendment to the Zoning Map of Flowery Branch, Georgia. Accordingly, the Zoning Administrator is hereby authorized to update the Official Map consistent with Article 3 of the Zoning Ordinance.

SECTION 4. SEVERABILITY.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE.

The effective date of this Ordinance shall be upon adoption by the City Council of the City of Flowery Branch, Georgia.

SECTION 6. REPEALER.

All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Adopted this 16th day of September 2021.

James M. Miller, Mayor

ATTEST

Vickie Short, City Clerk

APPROVED AS TO FORM

E. Ronald Bennett, Jr., City Attorney

Exhibit "A"

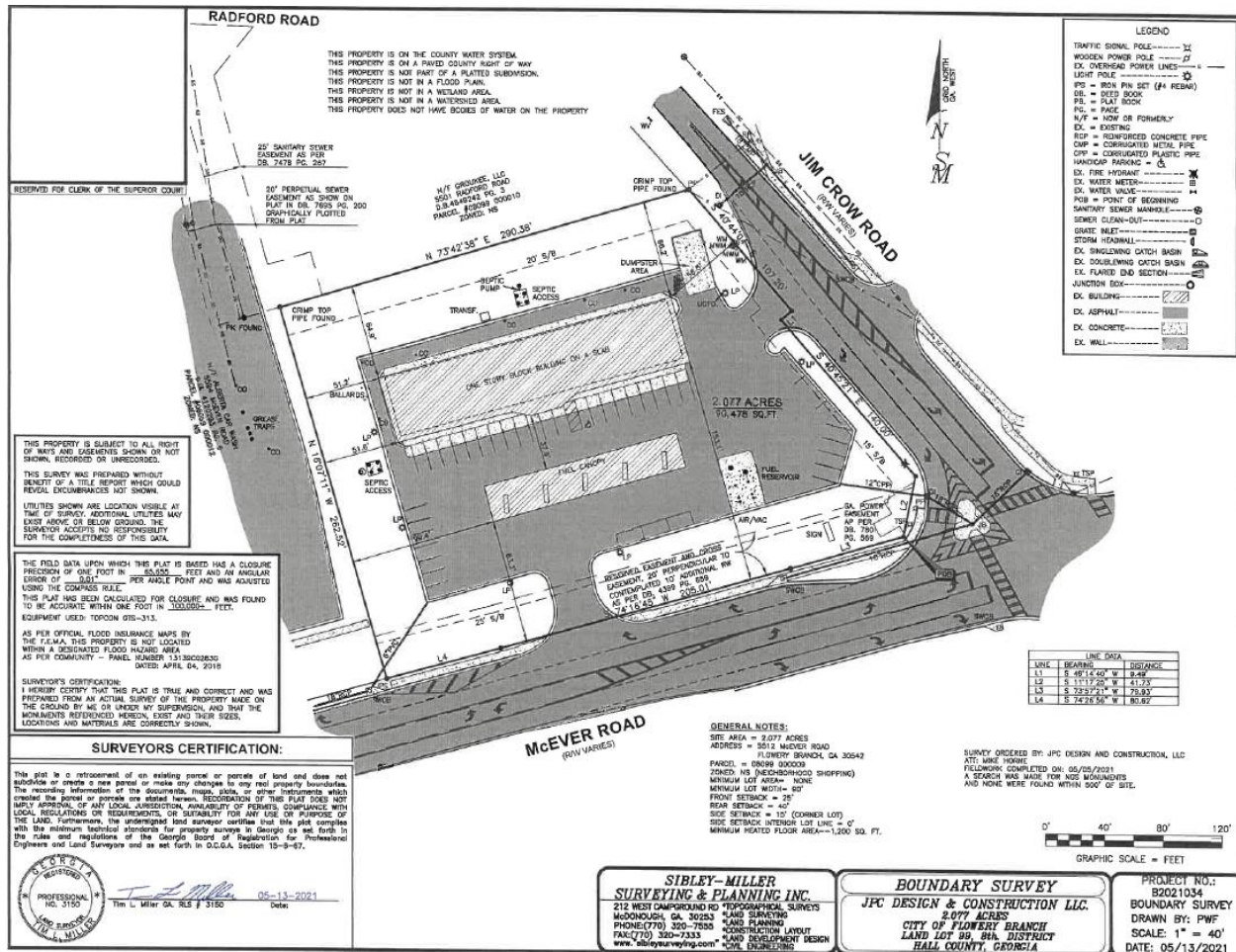


Exhibit "B"

Legal Description

PF #19

All that tract or parcel of land lying and being in Land Lot 99 of the 8th Land District, Hall County, Georgia, and being 2.132 acres as shown in a survey for RCJ Investments, LLLP (sic), dated January 7, 2000, with said property being more particularly described as follows:

BEGINNING at the intersection of the Southwestern right of way of Jim Crow Road. said road having a 60 foot right of way with the Northwest right of way of McEver Road, said road having an 80 foot right of way; thence Southwesterly along the Northwestern right of way of McEver Road South 72 degrees 51 minutes 18 seconds West 126.44 feet to an iron pin, South 73 degrees 10 minutes 42 seconds West 205.01 feet to an iron pin. South 73 degrees 20 minutes 53 seconds West 80.62 feet to an iron pin; thence departing said right of way North 17 degrees 13 minutes 14 seconds West 262.52 feet to an iron pin; thence North 72 degrees 36 minutes 35 seconds East 290.30 feet to an Iron pin located on the Southwestern right of way of Jim Crow Road; thence South 41 degrees 50 minutes 12 seconds East 292.36 feet along the Southwestern right of way of Jim Crow Road to an iron pin and the TRUE POINT OF BEGINNING.

The above referenced survey was prepared by Patton-Patton, Inc., Chris M. Patton, RLS No. 2647. TOGETHER WITH and benefiting the subject property, the easement created in that certain General Warranty Deed from Buckhorn Properties, Inc. to RCJ Investments, Inc., dated as of January 7, 2000, filed for record January 31, 2000 at 10:15 a.m., recorded in Deed Book 3621, Page 510, Records of Hall County, Georgia; as corrected by Corrective General Warranty Deed from Buckhorn Properties, Inc. to RCJ investments, MP, dated as of January 7, 2000, filed for record December 9, 2002 at 1:40 p.m. , recorded in Deed Book 4399, Page 658, aforesaid Records.

Exhibit “C”

Conditions of Zoning

1. Development shall be serviced by Flowery Branch sewer.
2. Existing structure will be updated with new paint and colors and shall match the design of the new structure. Any structural work or modification on existing the building will be permitted and reviewed by City staff.
3. New proposed restaurant shall substantially adhere to the rendering submitted to the City of Flowery Branch in July of 2021 and as shown below:



4. An overall sign plan for the entire development shall be submitted and approved by city staff. Said plan shall meet the requirements as shown in Article 19 of the Flowery Branch zoning ordinance.
5. A landscape plan shall be submitted and approved by staff at the time of land disturbance.
6. Inter-parcel connectivity with 5224 McEver Road, parcel identification 08099 000012, is encouraged if feasible.