



Variance Request Application Packet

Applicant's Public Notice Requirements

The Code requires public notice of your Rezoning request, Special Use and Variance requests. The Community Development Department will tell you when and where the Planning and Zoning Commission and the Mayor and Council meetings will be held.

Newspaper: The City will publish a legal notice in the newspaper regarding your application and announcing the time and place of the public hearing. At least 15 days before the Mayor and Council but no more than 45 days prior to the date of the public hearing.

Sign Posting, Public Hearing Notice & Affidavit

Sign Posting: The applicant shall be required to post and maintain signs supplied by the City on or near the right-of way of the nearest public street, so as to be visible from the street for at least 15 days and not more than 45 days immediately preceding the date for the governing body's public hearing on the rezoning or special use application. It is your responsibility to post the signs and to maintain the signs during the posting period. Failure to post and maintain the signs continuously may prohibit consideration of the application at any scheduled public hearing. In the event the signs are not posted continuously, the City, in its sole discretion, may require the reposting and re-advertising prior to any future public hearing, for which the applicant shall pay an additional re-advertising fee. The City may also in its sole discretion, continue, hold, approve, or dismiss the application. Any dismissal under the provisions of this paragraph shall be with prejudice unless specifically noted as being without prejudice by the City.

Public Hearing Notice: At least 15 days before the Planning & Zoning Commission's public hearing, you are to mail a notice to all persons owning property within 200 feet of the property that is the subject matter of the zoning change. The notice is to state the time, place and purpose of the hearings, and include a page size copy of the sketch plan submitted with the application.

Affidavit: Prior to the public hearing you must also submit an affidavit with a copy of the notice to the Community Development Director listing the property owners and certifying the date that the notices were mailed (form attached)

City Actions

The Community Development Department will date your application when it is received. The Community Development Department has five (5) working days in which to determine that your application is complete or to return it to you for additional information. The application will not be scheduled for public hearing until it is complete. The Planning Commission's public hearing will be held at the time advertised. At the public hearing, you will be allowed to speak first in order to present the application. Others in support of the application may then speak, followed by those in opposition to the application. You may then be allowed time for rebuttal if adequate time remains. Rebuttal must be limited to points or issues raised by opponents to the application at the hearing. After the Planning Commission has made their recommendation, the Mayor and City Council will consider approval or denial of the application at their own public hearing. You or a representative thereof with authority to make binding commitments to the City with respect to any stipulations that may be offered in connection with such application shall attend the meetings, and make a presentation following the same procedure as the Planning Commission hearing. The final action taken by the Mayor and City Council will be indicated on the application form, along with any stipulations that they impose on the property if approved, and a copy will be given to you as official notice of their final action.

Contact Information

The Community Development Dept.
4488 Pineview Drive
Powder Springs GA 30127.
commdev@cityofpowdersprings.org
770-943-1666

Zoning Administrator
Shauna Wilson-Edwards
Special Projects Coordinator for Zoning
sedwards@cityofpowdersprings.org
770-943-1666



Variance Request

Application Checklist

Applicant Information

Name	Phone
Mailing Address	Email

Application Checklist

The following information will be required:

- Application
- Notice of Intent
- Applicant's Written Analysis
- Campaign Contribution Disclosure
- Owner's Authorization, if applicable.
- Legal Description and Survey Plat of the property
- Application Fee (summary of fees attached)
- Copy of the Deed that reflects the current owners name
- Vicinity Map outlining the parcel/s in relation to the surrounding area
- Site plan, plat or survey prepared by an architect, engineer. The following information **must** be included:
Specific use or uses proposed for the site. Acreage, bearing and distances, other dimensions, and location of the tract(s). Locations, sizes and setbacks of proposed structures, including the number of stories and total floor area, height, for residential number of units, Square footage of heated floor area. Detention/retention areas, and utility easements. Location of dumpsters. Public or private street(s) - right of way and roadway widths, approximate grades
Location and size of parking area with proposed ingress and egress. Specific types and dimensions of protective measures, such as buffers. Landscaping. Wetlands, stream buffers, and 100 year floodplain.
- Sketch Plan/ Architectural Rendering, if applicable
- Traffic Study required for development with 500,000 sf of nonresidential floor area or 350 dwelling units or more.

List additional attachments:

Note Carefully

If your application qualifies as a "Development of Regional Impact" (see Article 13) then you must follow additional procedures BEFORE your application can be considered. The Community Development Department will assist you with the DRI process, which is mandated by State and GRTA requirements.

Indicate the current zoning district of the property, and the zoning district you are requesting. File a separate application for each Rezoning request naming a different zoning district. A Special Use request, Variance request can be filed concurrently with a Rezoning request on the same property by separate application.



Variance Request Application Form

Applicant Information

Name TWIGS FARMERS MARKET LLC c/o Battle Law, P.C.	Phone 404-601-7616
Mailing Address 3562 Habersham at Northlake, Building J, Suite 100, Tucker, GA 30084	Email mlb@battlelawpc.com

Variance Request Property Information

Address 3815 Hopkins Road SW, Powder Springs, GA 30127	Parcel ID / Lot# 19086900030
Acreage 1.17	Present Zoning NRC

Variance Request Variance to reduce the right-of-way dedication

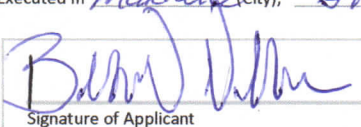
Source of Water Supply Cobb County water system	Source of Sewage Disposal Cobb County water system
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Additional Information, If Applicable

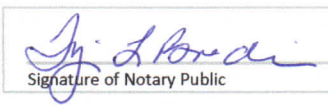
Elementary School and School's Capacity	Middle School and School's Capacity
High School and School's Capacity	Peak Hours Trips Generated

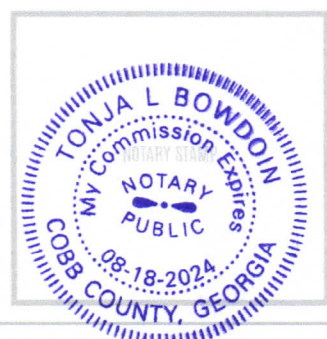
Notary Attestation

Executed in Marietta (City), GA (State).

	<u>Bolrick Wisdom</u>	<u>8-19-2021</u>
Signature of Applicant	Printed Name	Date


Subscribed and sworn before me this 19 day of August, 2021.

	<u>Tonja L. Bowdoin</u>	<u>8/18/2024</u>
Signature of Notary Public	Name of Notary Public	My Commission Expires



For Official Use Only

PZ #	
Planning Commission Hearing	City Council Hearing
Withdrawal Date	Reason for Withdrawal



city of
powder springs
Variance Request
Notice of Intent

Applicant Information

Name TWIGSFARMERSMARKETLLC c/o Battle Law, P.C.

Phone 3562 Habersham at Northlake, Building J, Suite 100, Tucker, GA 30084

Mailing Address 404.601.7616

Email mlb@battlelawpc.com

Notice of Intent

PART I. Please indicate the purpose of this application :

The Applicant is seeking a variance to reduce the right-of-way dedication on Hopkins Road in order to allow for the entire parking lot at the proposed TWIGSFarmers Market Grocery Store at 3815 Hopkins Road.

PART II. Please list all requested variances:

Reduction of right-of-way dedication to 30 feet from the Centerline of Hopkins Road

Part III. Existing use of subject property:

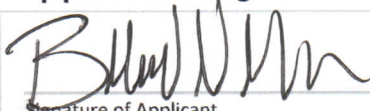
Tract 1 of the property is currently vacant. Tract 2, which the Applicant aims to utilize in conjunction with the Grocery Store at a future date has previously been improved with a single-family home and is occupied by a temporary tenant.

Part IV. Proposed use of subject property:

The Subject Property is going to be used for a Grocery Store. The requested reduction of right-of-way-dedication is to allow for the entirety of the Grocery Store parking lot, and main supply sprinkler systems lines to be out of the right-of-way. The Applicant does wish to maintain the landscaping that falls within the dedicated right-of-way.

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

Applicant Signature



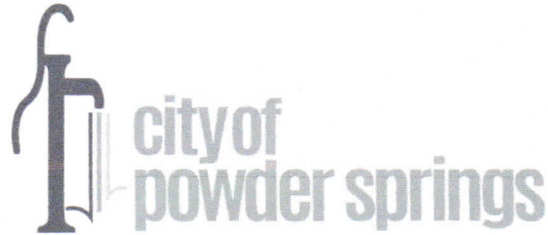
Signature of Applicant

Boldrick Wisdom

Printed Name

08/19/2021

Date



city of powder springs

Variance Request

Applicant's Written Analysis

Applicant Information

Name TWIGSFARMERSMARKETLLC c/o Battle Law, P.C.

Phone 3562 Habersham at Northlake, Building J, Suite 100, Tucker, GA 30084

Mailing Address 404.601.7616

Email mlb@battlelawpc.com

Written Analysis

In details please address these Variance Criteria:

- a. Are there extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property. The Applicant is seeking a reduction of right-of-way dedication, in the form of a commercial variance, in order to allow ample room for parking lot.
- b. A literal interpretation of the provisions of this development code would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.
A literal interpretation of the provisions of this development code would effectively deprive the Applicant of the ability to have a sufficient parking lot for future patrons of TWIGSFarmers Market.
- c. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located
Granting the commercial variance requested will not confer upon the property of the Applicant any special privileges that are denied to other properties of the district in which the Applicant's property is located.
- d. The requested variance will be in harmony with the purpose and intent of this development code and will not be injurious to the neighborhood or to the general welfare.
The requested reduction of right-of-way dedication is in harmony with the purpose and intent of the Powder Springs development code and will not be injurious to the neighborhood or to general welfare. The Applicant simply request this reduction to allow space for a parking lot for the future TWIGSFarmers Market.
- e. The special circumstances are not the result of the actions of the applicant.
The special circumstances are not the result of the actions of the Applicant. The Applicant is seeking to supply ample parking, outside of the right-of-way, for the future Farmers Market.
- f. The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed.
The variance requested is the minimum variance that will make possible the proposed use of the land. While the Applicant is seeking a reduction of right-of-way dedication, TWIGS Farmers Market, LLC still wishes to maintain the landscape strip within the right-of-way.
- g. The variance shall not permit a use of land, building or structures, which is not permitted by right in the zoning district overlay district involved.
The variance shall not permit a use of land, building, or structures, which is not permitted by right in the zoning district. It has been rezoned NRC by Cobb County, pursuant of this variance approval by the City of Powder Springs.

Applicant Signature

Boldrick Wisdom
Printed Name

08/19/2021
Date



Variance Request

Campaign Contribution Disclosure

Applicant and Attorney Information

Applicant's Name TWIGS FARMERS MARKET LLC c/o Battle Law, P.C.

Applicant's Address 3562 Habersham at Northlake, Building J, Suite 100, Tucker, GA 30084

Applicant's Attorney Michele Battle

Attorney's Address 3562 Habersham at Northlake, Building J, Suite 100, Tucker, GA 30084

Campaign Contribution Disclosure

The following information is provided in accordance with the Georgia Conflict of Interest in Zoning Actions Act, O.C.G.A. 36-67A-1 et seq.

The property that is the subject of the attached application is owned by:

- Individual(s)
- Corporation
- Partnership
- Limited Partnership
- Joint Venture

All persons, corporations, partners, limited partners, or joint ventures party to ownership of the property that is the subject of the attached application are listed below:

APPLICANT: Within the two years preceding the date of the attached application, the applicant has made campaign contributions or gifts aggregating \$250 or more to the Mayor, to members of the Powder Springs City Council, or to members of the Planning Commission, as follows:

Name of Official	Amount of Contribution or Gift	Date of Contribution or Gift

ATTORNEY: Within the two years preceding the date of the attached application, the attorney representing the applicant has made campaign contributions or gifts aggregating \$250 or more to the Mayor, to members of the Powder Springs City Council, or to members of the Planning Commission, as follows:

Name of Official	Amount of Contribution or Gift	Date of Contribution or Gift



Variance Request Owner's Authorization Form

Owner's Authorization

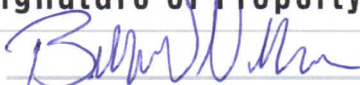
Applicant Name TWIGS FARMERS MARKET LLC c/o Battle Law, P.C.	Applicant's Address 3562 Habersham at Northlake, Building J, Suite 100, Tucker, GA 30084
Property Address 3815 Hopkins Road SW, Powder Springs, GA 30126	Property PIN

This is to certify that I am or We are or I am the Authorized Representative of a Corporation that is the owner of a majority interest in the subject property of the attached application. By execution of this form, this is to authorize the person names as "applicant" below, acting on behalf of the owner, to file for and pursue a request for approval of the following:

Check all that apply:

Rezoning <input type="checkbox"/>	Special Use <input type="checkbox"/>	Hardship Variance <input checked="" type="checkbox"/>
Special Exception <input type="checkbox"/>	Flood Protection Variance <input type="checkbox"/>	Appeal of Administrative Decision <input type="checkbox"/>

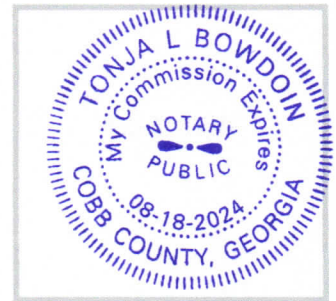
Signature of Property Owner(s)

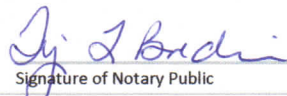
	<u>Boidrick WISDOM</u>	<u>8-19-2021</u>
Signature of Owner	Printed Name	Date

State of GA, County of Cobb.

This instrument was acknowledged before me this 19 day of August month.

20 21, by Boidrick Wisdom Identification Presented: KNOWN (Dr. License)



	<u>Tonja L. Bowdoin</u>	<u>8/18/2024</u>
Signature of Notary Public	Name of Notary Public	My Commission Expires

_____ Signature of Owner	_____ Printed Name	_____ Date
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State of _____, County of _____.

This instrument was acknowledged before me this _____ day of _____ month.

20 _____, by _____ Identification Presented: _____

_____ Signature of Notary Public	_____ Name of Notary Public	_____ My Commission Expires
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Record and Return to:

Weissman PC
One Alliance Center, 3500 Lenox Road, 4th Floor
Atlanta, GA 30326

**DEED PREP ONLY - PREPARED AT EXPRESS
INSTRUCTION OF PARTIES**

NO TITLE EXAMINATION

PARCEL ID: 19086900020 and 19086900030

WARRANTY DEED

**STATE OF GEORGIA
COUNTY OF FULTON**

THIS INDENTURE, made this February 1, 2021, between **BOLDRICK A. WISDOM AND LORAIN E. WISDOM**, of the County of Cobb, and the State of Georgia as party or parties of the first part, hereinafter called Grantor, and **TWIGS FARMERS MARKET LLC**, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATIONS in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, alienated, conveyed and confirmed and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee, the following described property, to-wit:

SEE ATTACHED EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE HERETO

THIS CONVEYANCE is made subject to all zoning ordinances, easements and restrictions of record affecting said described property.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee, IN FEE SIMPLE together with every contingent remainder and right of reversion, and to the heirs and assigns of said Grantee.

AND THE SAID Grantor will warrant and forever defend the right and title to the above-described property unto the said Grantees against the claims of all persons whomsoever.

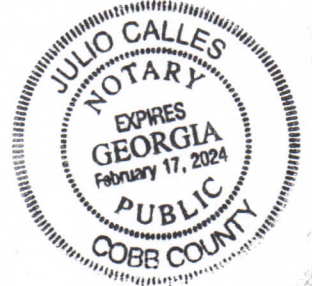
IN WITNESS WHEREOF, the Grantor has signed and sealed this Deed, on the date and year above written.

Signed, sealed and delivered
in the presence of:

[Signature]
Unofficial Witness

[Signature]
BOLDRICK A. WISDOM

(Seal)



[Signature]
Notary Public

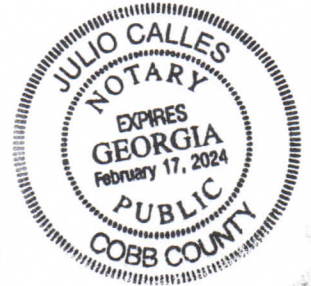
My Commission Expires: 17/02/2024

Signed, sealed and delivered
in the presence of:

[Signature]
Unofficial Witness

[Signature]
LORAIN L. WISDOM

(Seal)



[Signature]
Notary Public

My Commission Expires: 17/02/2024

EXHIBIT "A"

TRACT 1

All that tract or parcel of land lying and being in Land Lot 869, of the 19th District, 2nd Section, Cobb County, Georgia and being more particularly described as follows;

Beginning at a r/w monument found at the right-of-way intersection of the northerly right-of-way of Powder Springs Road (100' r/w) with the easterly right-of-way of Hopkins Road (50' r/w) said point being the POINT OF BEGINNING; thence along the right-of-way of Hopkins Road; N00°09'53"E, a distance of 254.92' to a point; thence leaving said right-of-way N87°54'35"E, a distance of 198.63' to a point; thence S00°08'29"E, a distance of 254.87' to an iron pin set on the right-of-way of Powder Springs Road; thence along said right-of-way S87°54'35"W, a distance of 199.99' to a r/w monument found and the POINT OF BEGINNING

Said tract or parcel of land contains 1.17 acres

TRACT 2

All that tract or parcel of land lying and being in Land Lot 869, of the 19th District, 2nd Section, Cobb County, Georgia and being more particularly described as follows;

Beginning at a r/w monument found at the right-of-way intersection of the northerly right-of-way of Powder Springs Road (100' r/w) with the easterly right-of-way of Hopkins Road (50' r/w) thence along the right-of-way of Hopkins Road N00°09'53"E, a distance of 254.92' to a point and the POINT OF BEGINNING; thence continue northerly along said line, a distance of 144.37' to a iron pin set; thence leaving said right-of-way N87°51'12"E, a distance of 197.86' to a iron pin set; thence S00°08'29"E, a distance of 144.53' to a point; thence S87°54'35"W, a distance of 198.63' to the POINT OF BEGINNING.

Said tract or parcel of land contains 0.66 acres.





Battle Law

NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF APPLICANT'S CONSTITUTIONAL RIGHTS

The portions of the Zoning Resolution of City of Powder Springs as applied to the Subject Property which classify or may classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph 1 and 2 of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. In addition, the development of the Subject Property subject to the present standards set forth in the Zoning Ordinance is unconstitutional in that it renders this property unusable and destroys its marketability. Therefore, the Zoning Ordinance constitutes a taking of applicant's property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitutional and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia. A denial of this Application would constitute an arbitrary and capricious act by the DeKalb County without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. A refusal by the City of Powder Springs City council to grant the variances as proposed by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any variances or special exceptions granted with respect to the subject Property that are subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject Property would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.