



city of powder springs

Rezoning Request

Application Form

Applicant Information

Name William D. Brown	Phone [REDACTED]
Mailing Address 6652 Ernest Barrett Pkwy, Marietta, GA 30064	Email [REDACTED]

Rezoning Request Property Information

Address 6652 Ernest Barrett Pkwy, Marietta, GA 30064	Parcel ID / Lot# 19079000010	Acreage 13.64+/- ac
Present Zoning R-20 and CRC	Proposed Zoning CRC	
Source of Water Supply Public	Source of Sewage Disposal Public	
Proposed Use Peak Hour Trips Generated	Source	

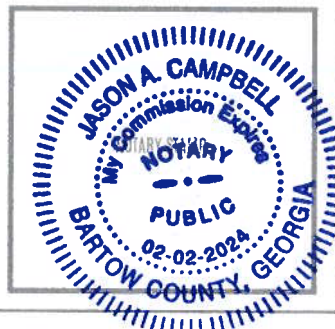
Additional Information, If Applicable

Elementary School and School's Capacity	Middle School and School's Capacity
High School and School's Capacity	

Notary Attestation

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

<u>William D. Brown</u> Signature of Applicant	William D. Brown Printed Name	<u>01-18-2024</u> Date
Subscribed and sworn before me this <u>18th</u> day of <u>Jan</u> month, 20 <u>24</u>		
<u>Jason A. Campbell</u> Signature of Notary Public	Jason A. Campbell Name of Notary Public	<u>02-02-2024</u> My Commission Expires



For Official Use Only

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



city of
powder springs

Rezoning Request

Notice of Intent

Applicant Information

Name	William D. Brown	Phone	
Mailing Address	6652 Ernest Barrett Parkway Marietta, GA 30064	Email	

Notice of Intent

SEE ATTACHED NOTICE OF INTENT

PART I. Please indicate the purpose of this application :

Applicant proposes to annex his property as part of a larger request to annex and rezone property for a mixed -use development of commercial and residential uses. The proposal is to rezone property to CRC from County CRC and R-20.

PART II. Please list all requested variances:

None at this time

Part III. Existing use of subject property:

largely undeveloped with a single house and outbuildings.

Part IV. Proposed use of subject property:

CRC uses that are typically found as outparcels of a Walmart shopping center.

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

This proposal is part of a larger proposal to annex property into Powder Springs. This proposal will create a mixed-use development at the intersection of Barrett Parkway and Powder Springs Road. To the south is the city of Mableton.

Applicant Signature

Signature of Applicant	Printed Name	Date
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**STATE OF GEORGIA
CITY OF POWDER SPRINGS**

NOTICE OF INTENT

William D. Brown

1. PART 1 Please indicate the purpose of this application:

These Applications for Annexation and Rezoning seek certain entitlements in order to allow the development of commercial retail uses. The Subject Property consists of an approximate 13.64 acres located on the west side of Ernest Barrett Parkway, the north side of Laura Brown Way, south side of Macedonia Road, all north of Powder Springs Road. The Subject Property is located in unincorporated Cobb County.

2. PART II Please list all requested variances:

There are no requests for the granting of concurrent variances.

3. PART III Existing use of the subject property:

The Subject Property on the west side of side of Ernest Barrett Parkway is zoned R-20 and Community Retail Commercial (“CRC”) in unincorporated Cobb County and some portions of the tracts are developed with single-family residential structures including a house, barn and warehouse. The remainder undeveloped.

4. PART IV Proposed use of subject property:

The Cobb County Future Land Use Map (“FLUM”) reflects that the portion of the Subject Property closer to Powder Springs Road is located within the confines of the Community Activity Center (“CAC”), while the remaining portions of the tracts moving north toward Macedonia and on the west sides of Ernest Barrett Parkway are located within the confines of the Neighborhood Activity Center (“NAC”) land use categories. The Powder Springs FLUM indicates nearby properties within the City of Powder

Springs, southwesterly along Powder Springs Road and northwesterly along Macedonia Road are in the Retail Commercial, Parks/Recreation/Conservation, Mixed Use, Low Density Residential, and Medium Density Residential land use categories.

5. **PART V Other Pertinent Information:**

The Brown family has owned property in this area for decades and Mr. Brown is seeking to annex and rezone the property into the City of Powder Springs.

Based upon the foregoing reasons, Mr. Brown respectfully requests that the Applications for Annexation and Rezoning be approved while soliciting any comments from staff or other officials of the City of Powder Springs so that such recommendations or input may be incorporated as conditions of approval of these Applications.

Respectfully submitted, this the 23rd day of January 2024.

SAMS, LARKIN, & HUFF, LLP



By: _____
PARKS F. HUFF
Attorney for Applicant
Georgia Bar No. 375010

376 Powder Springs Street, Suite 100
Marietta, GA 30064
[REDACTED]



city of powder springs

Rezoning Request

Applicant's Written Analysis

Applicant Information

Name William D. Brown	Phone
Mailing Address 6652 Ernest Barrett Parkway Marietta, GA 30064	Email

Written Analysis

In details please address these Rezoning Criteria: SEE ATTACHED ZONING ANALYSIS

a. Whether the proposed zoning district and uses within that district are compatible with the purpose and intent of the comprehensive plan. The future development map and the future land use plan map of the city's comprehensive plan shall be used in decision making relative to amendments to the official zoning map.

b. Whether the proposed zoning district and uses permitted within that district are suitable in view of the zoning and development of adjacent and nearby property.

c. Whether the existing use or usability of adjacent or nearby property will be adversely affected by one or more uses permitted in the requested zoning district.

d. Whether there are substantial reasons why the property cannot or should not be used as currently zoned;

e. Whether public facilities such as roads, schools, water and sewer utilities, and police and fire protection will be adequate to serve the proposed zoning district and uses permitted.

f. Whether the proposed zoning district and uses permitted within that zoning district are supported by new or changing conditions not anticipated by the comprehensive plan or reflected in the existing zoning on the property or surrounding properties.

g. Whether the proposed zoning district and uses permitted within that zoning district reflect a reasonable balance between the promotion of the public health, safety, morality or general welfare and the right to unrestricted use of property.

Applicant Signature

Signature of Applicant	Printed Name	Date
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**STATE OF GEORGIA
CITY OF POWDER SPRINGS**

ZONING ANALYSIS

William D. Brown

- a. Whether the proposed zoning district and uses within that district are compatible with the purpose and intent of the comprehensive plan. The future development map and the future land use plan map of the city's comprehensive plan shall be used in decision making relative to amendments to the official zoning map.**

The Subject Property is located in unincorporated Cobb County and is also included in a contemporaneous Annexation Application with this Rezoning Application. The Cobb County Future Land Use Map ("FLUM") delineates the Subject Property as being within the confines of two land use categories: Neighborhood Activity Center ("NAC"); and Community Activity Center ("CAC"). The City of Powder Springs FLUM indicates nearby properties in the City of Powder Springs to the west are delineated as being in the Retail Commercial, Parks/Recreation/Conservation, Mixed Use, Low Density Residential, and Medium Density Residential land use categories. The requested CRC zoning constitutes a transition from typical single-family development along Ernest Barrett Parkway to the proposed commercial zoning approaching Macedonia Road's intersection with Ernest Barrett Parkway.

- b. Whether the proposed zoning district and uses permitted within that district are suitable in view of the zoning and development of adjacent and nearby property.**

The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings which are in direct contiguity or adjacent to the Subject Property and along the Macedonia Road and Ernest Barrett Parkway.

- c. Whether the existing use or usability of adjacent or nearby property will adversely affected by one or more uses permitted in the requested zoning district.**

The zoning proposal will have no adverse effect or impact upon the existing uses or usability of adjacent or nearby properties, the preponderance of which are residentially zoned and which transition to commercial southward on Ernest Barrett Parkway. Nearby properties within the City of Powder Springs have varying densities for MDR and LDR residential zonings.

- d. Whether there are substantial reasons why the property cannot or should not be used as currently zoned.**

The Subject Property to be affected by the Annexation and Rezoning proposal has limited reasonable economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility. Additionally, the present owners of the Subject Property are suffering a significant economic detriment by virtue of the continuation of the present R-20 and CRC zoning classifications. Additionally, the Annexation and Rezoning of the Subject Property for commercial retail will present a unique and appropriately positioned use that brings a combination of parcels into a consolidated commercial retail development in what could otherwise now be developed for residential and commercial within unincorporated Cobb County.

- e. Whether public facilities such as roads, schools, water and sewer utilities, and police and fire protection will be adequate to serve the proposed zoning district and uses permitted.**

The zoning proposal will have no adverse impact upon the existing infrastructure including, but not limited to, existing streets, fire and police protection, transportation facilities, utilities or schools.

- f. Whether the proposed zoning district and uses permitted within that zoning district are supported by new or changing conditions not anticipated by the comprehensive plan or reflected in the existing zoning on the property or surrounding properties.**

The proposed commercial retail zoning will occupy a section of Ernest Barrett Parkway north of a major signalized intersection which will have ingress and egress from an Arterial right-of-way (Ernest Barrett Parkway) and a Major Collector right-of-way (Macedonia Road), will provide an appropriate transition in intensity in all directions.

- g. Whether the proposed zoning district of MXU and uses permitted within that zoning district reflect a reasonable balance between the promotion of the public health, safety, morality or general welfare and the right to unrestricted use of property.**

The commercial retail proposal is balanced between the proposed zoning classification and the uses of the subject property and the proposed uses' impact to the public's health, safety and general welfare, all of which is beneficial from a land use perspective.

Respectfully submitted, this the 23rd day of January 2024.

SAMS, LARKIN, & HUFF, LLP



By: _____
PARKS F. HUFF
Attorney for Applicant
Georgia Bar No. 375010

376 Powder Springs Street, Suite 100
Marietta, GA 30064
[REDACTED]



Rezoning Request Campaign Contribution Disclosure

Applicant and Attorney Information

Applicant's Name William D. Brown

Applicant's Address 6652 Ernest Barrett Pkwy
Marietta, GA 30064

Applicant's Attorney Parks F. Huff
SAMS, LARKIN & HUFF, LLP

Attorney's Address Suite 100, 376 Powder Springs Street
Marietta, GA 30064

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:

William D. Brown

_____	_____
_____	_____
_____	_____

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
N/A	N/A	N/A

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
N/A	N/A	N/A



**city of
powder springs**

Rezoning Request

Owner's Authorization Form

Owner's Authorization

Applicant Name William D. Brown	Applicant's Address 6652 Ernest Barrett Pkwy Marietta, GA 30064
Property Address 6652 Ernest Barrett Pkwy Marietta, GA 30064	Property PIN 19079000010

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 checked="" type="checkbox"/>	Special Use <input type="checkbox"/>	Hardship Variance <input 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)

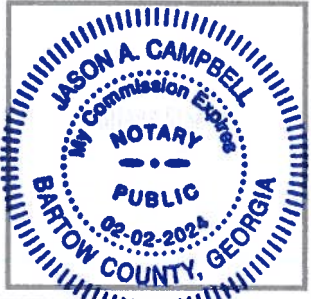
<u>Wm D Brown</u> Signature of Owner	William D. Brown Printed Name	<u>01-18-2024</u> Date
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State of GA, County of Cobb.

This instrument was acknowledged before me this 18th day of Jan. month.

2024, by William D. Brown name of signer. Identification Presented: GA DL.

<u>Jason A. Campbell</u> Signature of Notary Public	Jason A. Campbell Name of Notary Public	<u>02-02-2024</u> My Commission Expires
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_____ 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 _____ name of signer. Identification Presented: _____

_____ Signature of Notary Public	_____ Name of Notary Public	_____ My Commission Expires
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Fee Schedule

FEES – Updated 11/5/2018. Please verify cost with staff

Variance, residential	\$	250.00
Variance, commercial	\$	450.00
Special Use	\$	250.00
Rezoning Application, single family, 0-5 acres	\$	250.00
Rezoning Application, single family, 6-10 acres	\$	700.00
Rezoning Application, single family, 11-20 acres	\$	1,000.00
Rezoning Application, single family, 21-100 acres	\$	1,500.00
Rezoning Application, single family, ≥ 101 acres	\$	1,500.00 + \$30/acre
Rezoning Application, undeveloped med/high density residential, 0-5 acres	\$	700.00
Zoning - Rezoning Application, undeveloped med/high density residential, 6-10 acres	\$	1,200.00
Zoning - Rezoning Application, undeveloped med/high density residential, 11-20 acres	\$	1,500.00
Zoning - Rezoning Application, undeveloped med/high density residential, 21-100 acres	\$	2,000.00
Rezoning Application, undeveloped med/high density residential, ≥ 101 acres	\$	2,000.00 + \$40 /acre
Rezoning Application, undeveloped non-residential, 0-5 acre	\$	900.00
Rezoning Application, undeveloped non-residential, 6-10 acres	\$	1,500.00
Rezoning Application, undeveloped non-residential, 11-20 acres	\$	1,800.00
Rezoning Application, undeveloped non-residential, 21-100 acres	\$	2,200.00
Rezoning Application, undeveloped non-residential, ≥ 101 acres	\$	2,200.00 + \$50 /acre
Zoning - Rezoning Application, developed med/high density residential, 0-20,000 SF	\$	700.00
Rezoning Application, developed med/high density residential, 20,0001 - 50,000 SF	\$	1,200.00
Rezoning Application, developed med/high density residential, 50,001 - 100,000 SF	\$	1,500.00
Rezoning Application, developed med/high density residential, 100,001 - 500,000 SF	\$	2,000.00
Rezoning Application, developed med/high density residential, $\geq 500,001$ SF	\$	2,000.00 \$90 /100,000 SF
Rezoning Application, developed non-residential, 0-20,000 SF	\$	900.00
Rezoning Application, developed non-residential, 20,001-50,000 SF	\$	1,500.00
Rezoning Application, developed non-residential, 50,001-100,000 SF	\$	1,800.00
Rezoning Application, developed non-residential, 100,001-500,000 SF	\$	2,200.00
Rezoning Application, developed non-residential, $\geq 500,001$ SF	\$	2,200.00 + \$115 /100,000 SF
Public Hearing signs	\$	25.00
Public Hearing signs - Deposit	\$	10.00



Printed: 1/17/2024

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: [REDACTED]
Fax: [REDACTED]

Payer:
WILLIAM D BROWN

BROWN WILLIAM D

Payment Date: 9/26/2023

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2023	19079000010	1/15/2024	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance	
\$0.00	\$0.00	\$0.00	\$0.00	\$5,572.12	\$0.00	



Scan this code with your
mobile phone to view
this bill!!

TO THE CITY OF POWDER SPRINGS

COBB COUNTY, GEORGIA

CONSTITUTIONAL CHALLENGE

COMES NOW, WILLIAM D. BROWN, hereinafter referred to as the
"Applicant", and asserts the following, to wit:

1.

By application to which this exhibit relates, the Applicant has applied for
Annexation and a Rezoning of certain real property lying and being within unincorporated Cobb
County, Cobb County, Georgia, a more particular description and delineation of the subject
property, hereinafter referred to as the "Property", being set forth in said Applications.

2.

The Application for Rezoning of the property seeks a rezoning from the existing
categories of R-20 and CRC, as established by the governing authority of Cobb County, Georgia
to the zoning category of CRC in the City of Powder Springs.

3.

Particularly given that the property is located in Neighborhood Activity Center
("NAC") and Community Activity Center ("CAC") commercial areas as designated on the Cobb
County Future Land Use Map, the current R-20 and CRC zoning classifications of the property
and all intervening classifications between same and CRC in the City of Powder Springs as
proposed are unconstitutional in that they deprive the Applicant under and pursuant to Article 1,
Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and
Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United

States. This deprivation of property without due process violates constitutional prohibitions against the taking of private property without just compensation.

4.

The R-20 and CRC zoning classifications in unincorporated Cobb County and all intervening classifications between same and CRC in the City of Powder Springs as proposed as they presently exist violate the Applicant's right to the unfettered use of the property in that the existing zoning classifications do not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classifications are unconstitutional in that they are arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.

5.

The City of Powder Springs' Unified Development Code is further unconstitutional in that the procedures contained therein pertaining to the public hearings held in connection with zoning applications also violates the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law.

Respectfully submitted, this the 23rd day of January 2024.

SAMS, LARKIN & HUFF, LLP

A handwritten signature in black ink, appearing to read "Parks F. Huff", written over a horizontal line.

By: _____
PARKS F. HUFF
Attorney for Applicant
Ga. Bar No. 375010