



City of Fairburn
56 Malone Street
Fairburn, GA 30213
June 10, 2019 @ 6:00 PM

WORKSHOP AGENDA

- | | | |
|------|--|--|
| I. | Meeting Called to Order: | The Honorable Elizabeth Carr-Hurst, Mayor |
| II. | Roll Call | Shana T. Moss, Interim City Clerk |
| III. | Presentations: | Miss Niamani Knight, S.T.R.E.A.M. Kids Expo
2019 Georgia Minority Business Awards, Youth Entrepreneur of the Year |
| IV. | Discussions: | Councilmembers |
| V. | Review of Agenda Items for Council Session | Councilmembers |
| VI. | Adjournment | Councilmembers |



CITY OF FAIRBURN
CITY HALL
56 Malone Street
Fairburn, GA 30213
June 10, 2019 @ 7:00 PM

Regular Agenda

The Honorable Mayor Elizabeth Carr-Hurst, Presiding

The Honorable Mayor Pro-Tem Linda J. Davis
The Honorable Pat Pallend
The Honorable Ulysses J. Smallwood

The Honorable Alex Heath
The Honorable Hattie Portis-Jones
The Honorable James Whitmore

Mr. Randy Turner

City Attorney

I. Meeting Called to Order:

The Honorable Mayor Carr-Hurst

II. Roll Call:

Shana T. Moss
Interim City Clerk

III. Invocation:

Reverend Deris Coto
First Baptist Church of Fairburn

IV. Pledge of Allegiance:

In Unison

V. Presentations:

1. Chief Stoney Mathis

Fairburn Police Department

VI. Public Comments: Thirty (30) minutes shall be available for public comments. Each speaker shall be limited to three (3) minutes; however, a speaker may transfer his or her three (3) minutes to another speaker, but no speaker shall be permitted to speak for more than (6) minutes; further in the event, if more than ten (10) speakers desire to speak, each speaker shall be limited to two (2) minutes and no speaker may speak more than four (4) minutes. Issues raised at this time are generally referred to the City Administrator for review. Responses will be provided at a later date.

VII. Adoption of the Council Agenda:

Councilmember

VIII. Adoption of Consent Agenda Items:

Councilmembers

IX. Adoption of City Council Minutes: (May 13, 2019)

Councilmembers

X. Adoption of Special Called Executive Session Minutes
May 13, 2019

Councilmember

- XI. Public Hearing: Ms. Tarika Peek
Planning and Zoning
- A. Use Permit 19U-002 with Concurrent Variances 19CV-004 & 19CV-005-Iron Horse Interests, LLC.
- B. Rezoning [19RZ-004] for Geo H. Green Oil Company. Ms. Tarika Peek
For Mayor and Council to review and consider a rezoning petition to allow the development of 50 additional truck parking spaces at the Fairburn Travel Center.
- XII. Agenda Items:
1. **Fairburn Police Department** Chief Stoney Mathis
- A. Creation of Volunteer Police Department Reserve Unit. The Police Department is requesting authorization o implement a four officer Reserve Unit. This unit will be primarily responsible for Court security.
- B. Speed limit reduction on Meadow Glen Parkway. The Police Department is requesting that the speed limit on Meadow Glen Parkway be reduced from 35 mph to 25 mph.
2. **Office of the City Clerk** Ms. Shana T. Moss
- 2019 General Election Qualifying Dates for the General Election in November. For Mayor and Council to designate through resolution Qualifying Dates for Monday August 19, 2019, Tuesday August 20, 2019 and Wednesday August 21, 2019 as official qualifying dates for the city's three council seats.
3. **Office of the Mayor** Mayor Elizabeth Carr-Hurst
- MEAG Power. To approve Mayor Elizabeth Carr-Hurst as a voting delegate and to approve Mayor Pro-Tem Linda J. Davis as an alternate.
4. **Office of the Mayor** Mayor Elizabeth Carr-Hurst
- For Mayor and Council to review and consider an ordinance for a six-month moratorium on various land use applications for drive-through fast food restaurants within the Highway 74 Overlay District.
- XIII. Council Comments Councilmembers
- XIV. Executive Session None
- XV. Adjournment Councilmembers

*When an Executive Session is required, one will be called for the following issues:
(1) Personnel (2) Real Estate or (3) Litigation.

City of Fairburn
Mayor and Council Meeting Minutes
May 13, 2019
7:00 PM

- I. Call to Order: The meeting was called to order by the Honorable Mayor Carr-Hurst at 7:00 pm.
- II. Roll call was taken by Interim City Clerk, Shana T. Moss with the following members present:

Mayor Elizabeth Carr-Hurst	
Mayor Pro-Tem Linda J. Davis	Councilman Alex Heath
Councilman Pat Pallend	Councilwoman Hattie Portis-Jones
Councilman Ulysses J. Smallwood	Councilman James Whitmore

The attendance of Mayor and Council constituted a quorum and the meeting proceeded.

- III. The invocation was given by Councilman James Whitmore.
- IV. The Pledge of Allegiance was recited in unison.
- V. Presentations:
1. Dr. Steve Moyers, Dr. Shara Mayberry and Dr. Arthur Yancey, spoke about the partnership with Grady Healthcare Systems. The trio focused on the Mobile Integrated Health (MIH) Unit. This unit is an innovative program utilizing a Nurse Practitioner and an Advanced EMT in a fully equipped EMS First Responder SUV who deliver care to individuals seeking service through the 9-1-1- system for non-emergent complaints. The MIH is a National Center of Excellence that uses a Medical Priority Dispatch system for processing. They stated there is an 11.2 minutes response time to Fairburn and they are trying to achieve a 9 minutes response time. Dr. Yancy stated this system is so comprehensive that they can provide treatment to stroke patients. There are 11 ambulances in the South Fulton Area. They are excited about the partnership and look forward to the continued relationship with the City of Fairburn.
- VI. Public Comments were none.
- VII. Adoption of the Council Agenda: NA.
- VIII. Adoption of the Consent Agenda Items. The motion to approve was made by Councilman Whitmore with the second provided by Councilman Heath. Vote: (6-0) Motion Carried.
- IX. Adoption of City Council Minutes. The motion to approve with corrections (to Section XI-2A from \$450.00 to \$75.00) was made by Councilman Smallwood with the second provided by Mayor Pro-Tem Davis. Vote: (6-0) Motion Carried.
- X. Adoption of Special Called Executive Session Minutes. The motion to approve minutes from the May 1, 2019 Special Called Executive Session Meeting was made by Councilman Whitmore with the second provided by Councilman Heath. Vote: (6-0) Motion Carried.
- XI. Public Hearing: The motion to open the public hearing was made by Councilman Heath with the second provided by Mayor Pro-Tem Davis. Vote: (6-0) Motion Carried.
The following individual spoke regarding the Public Hearing.

1. Ms. Jane Storey, stated she was concerned about the number of cars and that this could be dangerous if approved. She further stated Virilyn B. Smith is already congested with the number of trucks. She stated the STEM school would bring more traffic and she is concerned Fairburn is getting too congested.
2. Ms. Pamela Holloway stated she resides on 93 Chestnut Street and she is inquiring about why this street has not been paved? She further stated the trees are overgrown in the area and she has reported that there is a leak. City Engineer, Ms. Lester Thompson and Interim Utilities Director, Mr. Eddie Powell were notified.

City Planner, Ms. Tarika Peeks stated, the applicant is requesting to rezoning 75 acres from R-2 (Single-Family Residential) to R-3 (Single-Family Residential) to allow a development of 171 single family residential lots.

The proposed development is consistent with the 2035 Comprehensive Plan and Future Land Use Map. The future land use map has designated 49.6 acres of the site as Low Density Residential, 15.3 acres as Town Center Mixed Use and 9.2 acres as Greenspace.

The Low-Density Residential character area allows 1 acre to 1/3 acre lots and the Town Center Mixed Use Character area allows much higher density such as R-4 single-family, RM-4, RM-8 multi-family, and R-CT (Townhouse/Condominiums).

The proposed development is also consistent with the surrounding residential uses and density of other single-family subdivisions in the area and in particular subdivisions along Virlyn B. Smith Road.

The development will provide sidewalks, sodded front and rear yards, pedestrian scale lightning throughout the development, a playground, pavilion on 11 acres of greenspace 5' sidewalks, curb and gutter will be installed on Virlyn B. Smith Road as well as a deceleration lane. A secondary entrance is proposed for Brooks Drive.

The Planning and Zoning Commission reviewed the petition on May 7th and unanimously recommended **Approval Conditional.**

Based on the proposed development consistency with the Comprehensive Plan and Future Land Use Map, Staff's recommendation is **Approval Conditional.**

Speaker in Favor of Rezoning

Mr. Richard Ferry, the applicant a subsidiary of Brent Holding stated their original plan was townhomes, which were not conducive to the area. Currently they are requesting 171 lots, consisting of 11.04 acres of open spaces and there will be two points of access including Brooks Drive. The square footage will range from 2000-2500 and will be ranch style homes. The North Georgia Water Association has stated there is adequate pumping supply for this subdivision.

Speakers in Opposition of Rezoning

Ms. Nell Smith asked Mayor and Council to deny. She has lived in Fairburn for 80 plus years. The traffic will be terrible, and all growth is not good. She further stated, Virilyn B. Smith is very dangerous due to the traffic.

Ms. Bonita Sanders Mitchell stated Virilyn B. Smith is a heavy traffic area. This street is troublesome when school is in session. She asked Mayor and Council to think about the impact and the growth. Perhaps phasing in houses over a certain time.

Rebuttal from the Applicant

Mr. Ferry's rebuttal consisted of him stating this type of rezoning was outlined in the city's comprehensive plan and it dictates the direction that Fairburn wants to grow. He stated the homes would be gradually phased in due to the conceptual and preliminary plat review and all elements of the building permit could possibly take one year.

Mayor and Council engaged in discussion. Mayor Carr-Hurst stated with a lot of people trying to downsize they might want to consider more ranch styles. Mayor Pro-Tem Davis inquired about how does phases help traffic? Mr. Ferry stated there is a five-year build plan, all homes would not be constructed at the same time. Councilman Heath asked when is the proposal to connect Brooks Drive with Phase 2? Mr. Ferry stated all roads will be cut through the subdivision, but Brooks Drive can be implemented in Phase 1 and this will alleviate some of the traffic. Councilwoman Portis-Jones expressed her concerns about the traffic on Virilyn B. Smith and stated Brooks Drive should be a priority.

The motion to close the public hearing was made by Councilman Pallend with the second provided by Councilman Whitmore.

The motion to approve with the following three (3) conditions was made by Councilman Whitmore and the second was provided by Councilwoman Portis-Jones. Vote: (6-0) Motion Carried.

Conditions:

- 1. The developer shall install an 8' loop feed with two tie points for water connection at Virilyn B. Smith Road and at the dead-end of Cemetery Street.*
- 2. The City of Fairburn will determine if a sewer pump station is needed. If the City of Fairburn determines that a sewer pump station is needed, the developer shall install a sewer pump station and at the completion of construction, ownership of the sewer pump station shall be transferred to the City of Fairburn.*
- 3. The connection onto Brooks Drive shall be constructed during phase 1 of the development and Brooks Drive shall be an additional access point [entrance/exit] for the development.*

XI. Agenda Items: *All Items were consent agenda Items. The motion to approve all Consent Agenda items was made by Councilman Whitmore with the second provided by Councilman Heath.*

1. Office of the City Attorney

Approval of a Resolution to abandon approximately 0.230 acres of City right-of-way. To approve an Intergovernmental Agreement (IGA) with the Fulton County Board of Education to convey the abandoned right-of-way to be used for educational purposes.

Mr. Randy Turner

Consent Agenda

2. Office of the City Engineer

Approval of Task Order #134 with Integrated Sciences and Engineering for Water and Sewer Plan Reviews and Construction Inspection.

Mr. Lester Thompson
Consent Agenda

3. Office of the City Engineer

Approval of the 2017 CDBG Contract with Fulton County. For Mayor and Council to approve the 2017 CDBG Contract with Fulton County for the Cora Robinson Park Improvements Phase II Project.

Mr. Lester Thompson
Consent Agenda

4. Office of the City Engineer

Approval of the 2017 CDBG Contract with Fulton County. For Mayor and Council to approve the 2018 CDBG Contract with Fulton County for the demolition of 155 Dodd Street.

Mr. Lester Thompson
Consent Agenda

5. Office of the City Engineer

Approval of the 2018 CDBG Contract with Fulton County. For Mayor and Council to approve the 2018 CDBG Contract with Fulton County for the Dodd Street Underground Utility Relocation Project.

Mr. Lester Thompson
Consent Agenda

XIII. Council Comments

Councilmembers

Councilwoman Portis-Jones wished everyone a Happy Belated Mother's Day regardless if you were a mother by birth or nurturing, it takes a village.

Councilman Pallend had no comment.

Councilman Smallwood had no comment.

Mayor Pro-Tem Davis stated, Thanks to everyone who helped to make Georgia Cities Week very successful; Councilman Smallwood, Ms. Chapin Payne, Dr. Davante Parks, Fire, Police, Street Departments and staff. Congratulations to the Fairburn Youth Track and Field Team and the Landmark Christian School for bringing to the City of Fairburn the 2019 State Championship title.

Councilman Heath thanked everyone for attending. He gave accolades to the police department. The traffic is being controlled the city has only one reported burglary which is outstanding. The Fairburn Fire Department (we cannot do without them) were very helpful when he suffered a heatstroke and he thanked Lester Thompson for getting the city's CDBG money.

Councilman Whitmore stated the staff mean the world to me. He praised City Planner, Tarika Peeks, Community Development Director, Lester Thompson and Public Works Interim Director, Eddie Powell for their hard work. These employees protect and work in the city. The Police Department is top-notch, the fire department and recreation department make his job easier.

Mayor Carr-Hurst stated, staff you're fantastic. She expressed her thanks to staff and others for their kindness during the passing of her brother. She said it was a tough time for the family, he was the oldest of 9 siblings and the first one to transition. She appreciated the councilmembers (Linda J. Davis, Hattie Portis-Jones, and James (Patricia) Whitmore) and staff (Jessica Davis, her mother, sister and niece) who traveled to Montgomery, Alabama for the service.

XIV. Executive Session

Councilmembers

At 8:49 pm a motion to enter executive session for personnel and real estate matters was made by Councilman Whitmore, with the second provided by Mayor Pro-Tem Davis
Vote:(6-0) Motion Carried.

At 9:20 pm a motion to exit executive session was made by Councilman Heath and the second was provided by Mayor Pro-Tem Davis.
Vote: (6-0) Motion Carried.

At 9: 20 pm a motion to re-enter the regular meeting was made by Councilman Whitmore and the second was provided by Councilman Smallwood.
Vote: (6-0) Motion Carried.

XV. Adjournment: At 9:21 pm, a motion to adjourn was made by Mayor Pro-Tem Davis and the second was provided by Councilman Heath.
Vote: (6-0) Motion Carried.



**CITY OF FAIRBURN
MAYOR AND CITY COUNCIL
AGENDA ITEM**

SUBJECT: USE PERMIT 19U-002 with Concurrent Variances 19CV-004 & 19CV-005 – Iron Horse Interests, LLC

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (X) OTHER

Planning and Zoning Commission: 05.07.19

Mayor and City Council: 06.10.19

DEPARTMENT: Community Development/Planning and Zoning Office

BUDGET IMPACT: None

PUBLIC HEARING: (X) Yes () No

PURPOSE: For the Mayor and Council to review and consider a use permit petition to allow a multi-story self-storage facility with two concurrent variances.

DESCRIPTION: The applicant is proposing to develop a multi-story self-storage facility with associated vehicle parking. The subject property is located on the west side of Senoia Road. Site access is proposed through a private drive connected to Senoia Road.

PLANNING & ZONING COMMISSION RECOMMENDATIONS:

Use Permit 19U-002: A request to allow a multi-story self-storage facility: **APPROVAL**
CONDITIONAL

Concurrent Variance 19CV-004: A request to reduce the buffer adjacent to residentially-zoned property from 100ft to 50ft.: **DENIAL**

Concurrent Variance 19CV-005: A request to reduce the front yard setback from 50ft to 35ft: **DENIAL**

STAFF RECOMMENDATIONS:

Use Permit 19U-002: A request to allow a multi-story self-storage facility: **APPROVAL**
CONDITIONAL

Concurrent Variance 19CV-004: A request to reduce the buffer adjacent to residentially-zoned property from 100ft to 50ft.: **APPROVAL**

Concurrent Variance 19CV-005: A request to reduce the front yard setback from 50ft to 35ft:
Staff is recommending a **WITHDRAWAL** of the request to reduce the front yard setback from 50ft to 35ft. The northeast corner property line adjacent to Wash Me Fast Car Wash should be considered a side yard not a front yard, which will eliminate the need for a 50ft front yard setback. The applicant is proposing to construct a storage building 35ft from the property line. The 35ft building setback will satisfy the Highway 74 Overlay District side yard setback requirement of 30ft.

Elizabeth Carr-Hurst
Elizabeth Carr-Hurst, Mayor

APPLICATION INFORMATION

Use Permit Petition 19U-002

APPLICANT/PETITIONER INFORMATION

Property Owners

Equity Retail, LLC

Gutherie Ravin Development, LLC

Petitioner

Iron Horse Interests, LLC

c/o Battle Law PC

PROPERTY INFORMATION

Address: 7935 Senoia Road [parcel # 09F070300270368]**Land Lot and District:** Land Lot 27 and District 9F**Frontage:** Senoia Road**Area of Property:** +/- 2.648 acres**Existing Zoning and Uses:** C-2 (General Commercial District) and Undeveloped**Overlay District:** GA Highway 74 Overlay District**Zoning Cases/History:** N/A**2035 Comprehensive Future
Land Use Map Designation:** Highway Mixed Use**Compatibility with Fairburn's
2035 Comprehensive Plan:** The request to allow a multi-story self-storage on Senoia Road/Hwy 74 is compatible with the 2035 Comprehensive Plan and Future Development Map.

MEETING AND HEARING DATES

Planning and Zoning Commission Meeting
May 7, 2019**Mayor and City Council Public Hearing**
June 10, 2019

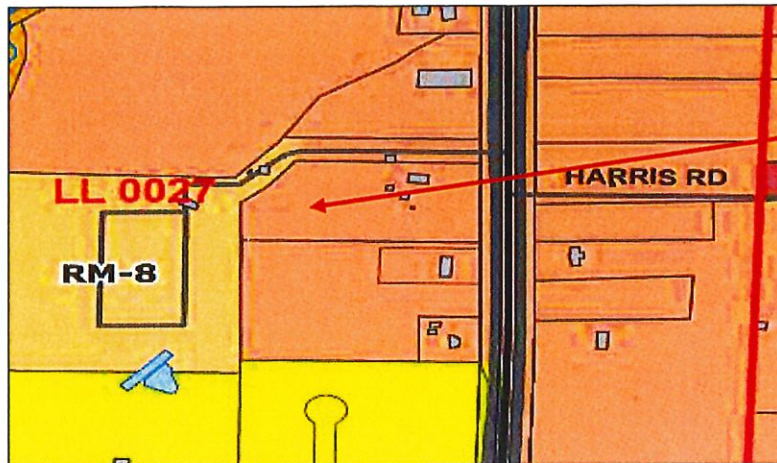
INTENT

A request for a use permit to allow a multi-story self-storage facility.

EXISTING ZONING AND LAND USE OF ABUTTING PROPERTIES

North: C-2 (General Commercial District)**East:** C-2 (General Commercial District)**South:** PD (Planned Development District)**West:** RM-8 (Multi-Family Residential District)

ZONING MAP



19U-002
+/- 2.648 acres

PUBLIC PARTICIPATION

The applicant held a public participation meeting on Wednesday, March 6, 2019 at the Fairfield Inn and Suites, 775 Ella Lane, Fairburn, GA. There were no other property owners present.

STAFF COMMENTS

Fire

- Buildings constructed that are over 3,500 square feet shall have an NFPA 13 Sprinkler System.

Water and Sewer

- Reviewed; no comments.

Engineering/Public Works

- Sidewalks are required on all street frontages regardless of the zoning district in which the street is located. All sidewalks shall have a minimum width of five feet (unless otherwise provided in this chapter) and shall be constructed to comply with the requirements of the Americans with Disabilities Act (ADA) standards, city's development standards and be subject to review and approval by the city engineer and/or director of building. [Sec. 71-46 (a) (c)]
- The minimum distance between driveways is required to be 125' based on a speed limit of 25 mph. Spacing between driveways are measured from radius-return to radius-return.
- How will motorists exit the proposed development?
- What will prevent motorists from exiting from the proposed one-way entrance?
- The minimum driveway width for a commercial property is 24'.
- A commercial driveway is required at the proposed entrance. Commercial drives need to extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
- All pavement markings installed on asphalt within the public right-of-way shall be thermoplastic material; 1.5-inch black contract tape shall be installed for crosswalks on concrete.

USE PERMIT CRITERIA

Section 80-172 Use Permit Considerations: Staff has reviewed said items pertaining to the subject use, and offers the following comments:

1. *Whether the proposed use is consistent with the Comprehensive Land Use Plan and/or Economic Development Revitalization plans adopted by the City Council;*

Staff is of the opinion that the proposed use is consistent with several goals of the Future Development Map and the Comprehensive Plan. The property is located in the Highway Mixed Use character area. The Highway Mixed Use character area encourages businesses that:

- Serve the entire city and surrounding counties
- Consider the impact of their traffic generation and aesthetics on other businesses, and
- Provide services to workers and residents within a reasonable distance of where they live and work

The Highway Mixed Use Character Area also recommends the following development strategies related to commercial development:

- Vibrant commercial corridors that provide a comprehensive array of goods and services to Fairburn residents as well as Coweta and Fayette County residents
- Smaller scale, walkable retail centers with a variety of stores and shops
- Developments that are accessible and safe for pedestrians and cyclists as well as automobiles

The proposed use primarily functions as a rental service instead of a retail shop or center. Therefore, the use may not meet retail-oriented objectives listed under the Highway Mixed Use Character Area.

2. *Compatibility with land uses and zoning districts in the vicinity of the property for which the Use Permit is proposed;*

The area consists of C-2 (General Commercial District) to the north; C-2 (General Commercial District) to the east; PD (Planned Development District) to the south and RM-8 (Multi-family Residential District) to the west. Surrounding land uses include the Peachtree Landing Apartments, the QuikTrip gas station, and the Wash Me Fast car wash. The zoning districts and land uses listed above are all included in the Highway Mixed Use character area.

3. *Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;*

The proposed use does not violate any known statutes, ordinances or regulations governing land development.

4. *The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;*

The proposed use is not expected to generate many hourly trips. There should be limited to no impact on traffic flow along adjacent streets.

5. *The location and number of off-street parking spaces;*

There are 19.3 parking spaces required on-site. The applicant has provided 19 parking spaces. These parking spaces are located primarily along the entrances to the site. Two parallel parking spaces are located at the northeast section of the site.

6. *The amount and location of open space;*

The zoning district (C-2 General Commercial) does not require land to be set aside for open space. However, the applicant will be required to abide by the city's landscape regulations.

7. *Protective screening;*

The site currently has an undisturbed buffer on its north and west boundaries adjacent to the parcel containing the Peachtree Landing apartments. The undisturbed buffer would provide a visual barrier between the existing residential use and the proposed three-story commercial use. Maintenance of (or addition to) this undisturbed buffer should improve the compatibility of these uses by mitigating the effects of lighting and noise on the residential use. The applicant will also be required to install a 6' fence around the site.



Western boundary of the site



Northern boundary of the site

8. Hours and manner of operation;

The gated portion of the self-storage facility will be accessible from 6:00am – 10:00pm daily to tenants. There will be staff on-site during office hours. Office hours will be 9:30am – 6pm, Monday through Friday and 9am – 5:30pm on Saturday.

9. Outdoor lighting; and

Outdoor lighting will be downward facing and will be required to meet the minimum requirements of the Zoning Ordinance.

10. Ingress and egress to the property

The site is connected to an extension of Harris Road to the west of Senoia Road. The proposed use will use two driveways to access the site. Both driveways are one-way only. The driveways will exit onto an existing private access road. The private access road runs behind the QuikTrip gas station and down to the Cracker Barrel restaurant. The applicant will be required to maintain a 125' distance between their driveway and the private access road. The 125' distance is a safety requirement mandated by the Georgia Department of Transportation.

VARIANCE CONSIDERATIONS

Concurrent Variance - 19CV-004 - A request to reduce the buffer adjacent to residentially-zoned property from 100ft to 50ft.

The applicant is requesting relief from Section 80-90(e)(1)(a) of the Highway 74 Overlay District site development standards – “A 100-foot buffer shall be provided on retail and commercial services developments which adjoin property developed as, or planned as, residential use.” Staff recommends **APPROVAL** of this variance request.

Standards for Variance Consideration

Section 80-287 of the City's Zoning Ordinance includes one or more criteria, which must be met before a variance, can be approved:

A. “Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of this chapter.”

The Highway 74 Overlay District lists as the intent of its site development standards, “[to] preserve the investments of all land owners and developers, as well as encourage both commercial and residential development within the city.” The current 100-foot buffer between retail/commercial services and residential uses in the Highway 74 Overlay District appears to be an onerous requirement which threatens to hinder development in the overlay district if enforced as written.

As a general example, the minimum lot size in the C-2 General Commercial District is ½ acre. If this same 100-foot buffer were applied to any ½ acre lot in the Highway 74 Overlay, the regulation would render the lot unbuildable. Within the past year at least one variance has already been granted to relieve a property owner from this regulation. The city is currently in the process of amending the zoning ordinance with a

recommendation to reduce this commercial-to-residential buffer. In lieu of this text amendment, a variance will allow the property owner to develop the site under the existing GA Highway 74 Overlay regulations.

Furthermore, in order to mitigate the negative effects of lighting and noise on the residential property, the developer will be required to maintain the current undisturbed buffer, enhance the buffer with landscaping as required by staff, and provide a 6' opaque fence around the site.

Therefore, based on these considerations, staff is of the opinion **this condition has been satisfied**.

B. "The application of the particular provision of this chapter to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape or topography, would create an unnecessary hardship for the owner while causing no detriment to the public."

Not applicable.

C. "Conditions resulting from existing foliage or structure brings about a hardship whereby a sign meeting minimum letter size, square footage and height requirements cannot be read from adjoining public road".

Not applicable.

VARIANCE CONSIDERATIONS

Concurrent Variance 19CV-005 – A request to reduce the front yard setback from 50ft to 35ft.

Staff is recommending a **WITHDRAWAL** of the request to reduce the front yard setback from 50ft to 35ft. The northeast corner property line adjacent to Wash Me Fast Car Wash should be considered a side yard not a front yard, which will eliminate the need for a 50ft front yard setback. The applicant is proposing to construct a storage building 35ft from the property line. The 35ft building setback will satisfy the Highway 74 Overlay District side yard setback requirement of 30ft.

Standards for Variance Consideration

Section 80-287 of the City's Zoning Ordinance includes one or more criteria, which must be met before a variance, can be approved:

A. "Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of this chapter."

Not applicable.

B. "The application of the particular provision of this chapter to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape or topography, would create an unnecessary hardship for the owner while causing no detriment to the public."

The applicant is requesting relief from the 50' front yard setback required for all properties in the GA Highway 74 Overlay District. In their letter of intent, the applicant cites that the 50' front yard setback imposes a hardship based upon the size and shape of the lot.

The subject lot is 2.648 acres and has nine (9) sides. The lot frontage is composed of three segments or "sides," which each abut and are parallel to the private access road (see Site Plan). The front yard setback impacts the proposed site layout along one lot frontage segment, where a storage building is proposed. However, the front yard setback does not create an unnecessary hardship for the developer based on the size or shape of the lot.

Therefore, based on these considerations, staff is of the opinion **this condition has not been satisfied.**

C. "Conditions resulting from existing foliage or structure brings about a hardship whereby a sign meeting minimum letter size, square footage and height requirements cannot be read from adjoining public road".

Not applicable.

STAFF RECOMMENDATION

Staff is recommending **APPROVAL CONDITIONAL** of the use permit petition.

Should the Mayor and City Council decide to grant the use permit, staff recommends the following conditions. The applicant's agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

A. To the owner's agreement to abide by the following:

1. The property shall be developed in substantial conformity with the Site Plan prepared by Falcon Design, stamped received April 29, 2019 and attached as Exhibit B. Any determination as to "substantial conformity" and deviation from the site plan shall be approved by the Community Development Department staff. The site plan is conceptual only and must meet or exceed the requirements of the City's regulations prior to the approval of a Land Disturbance Permit.

B. To the owner's agreement to the following site development considerations:

1. All front façades shall consist of all brick construction. Stucco (EIFS) shall be prohibited.
2. Sidewalks on all street frontages shall be a minimum of five-feet and shall be constructed to comply with the requirements of the Americans with Disabilities Act (ADA) standards and City of Fairburn development standard.
3. All utilities shall be installed underground throughout the project area.
4. A commercial driveway shall be required at the proposed entrance. Commercial drives need to extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
5. All pavement markings installed on asphalt within the public right-of-way shall be thermoplastic material; 1.5-inch black contact tape shall be installed for crosswalks on concrete.

6. The minimum distance between driveways shall be 125' based on a speed limit of 25 mph. Spacing between driveways shall be measured from radius-return to radius-return.
7. A 50-foot undisturbed vegetated buffer shall be installed adjacent to residentially zoned property. A combination of existing trees and newly planted trees (where insufficient vegetation exists) shall be installed to establish the buffer. New trees shall be 8'-10' in height at the time of installation. Newly planted trees shall consist of one or a combination of the following trees: Leyland Cypress, Easter Red Cedar, Southern Magnolia, Virginia Pine, Arborvitae, Savannah Holly, Nellie R. Stevens Holly.

ATTACHMENTS

Letters of Intent
Use Permit Considerations
Conceptual Site Plan
Site Renderings

LETTER OF INTENT AND
CONSTITUTIONAL ALLEGATIONS

and

Other Material Required by
City of Fairburn Zoning Ordinance
For
A Use Permit Pursuant to
City of Fairburn Zoning Ordinance

of

Iron Horse Interests, LLC
c/o Battle Law, P.C.

for

7935 Senoia Road, Fairburn, Fulton County, GA
Being Tax Parcel No. 09F070300270368

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, Georgia 30030
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com

I. LETTER OF INTENT

The Applicant, Iron Horse Interest, LLC, is seeking a Use Permit to allow for the development of the property located at 7935 Senoia Road, Fairburn, GA (the "Subject Property") for a multi-story self-storage facility. The Subject Property is 2.648 acres, is zoned C-2, and has a land use designation of Highway Mixed Use.

This document is submitted both as a Letter of Intent with regard to this Application, and a preservation of the Applicant's constitutional rights. A surveyed plat of the Subject Property controlled by the Applicant has been filed contemporaneously with the Application, along with other required materials.

II. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The portions of the City of Fairburn Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or 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 the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and 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 would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Fairburn Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its

land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal by the City of Fairburn Board of Commissioners to approve the Use Permit requested 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 rezoning of the Property 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 Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A refusal to approve the Use Permit in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

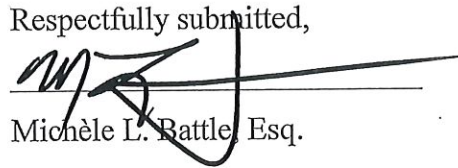
A refusal to approve the Use Permit in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

III. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Use Permit Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of City of Fairburn so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 4th day of February, 2019.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'ML Battle', is written over a horizontal line.

Michèle L. Battle Esq.

Attorney for Applicant

**VARIANCE LETTER OF INTENT
AND
JUSTIFICATION**

APPLICANT: Iron Horse Interests, LLC

SUBJECT
PROPERTY: 7935 Senoia Road, Fairburn, GA

ATTORNEY: Michèle L. Battle, Esq.
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, Georgia 30030
Phone: 404.601.7616

LETTER OF INTENT

The Subject Property is a 2.65 acre tract of land that is zoned C-2 and located within the Highway 74 Overlay District. The Applicant is seeking to acquire the Subject Property for the development of a climate controlled 80,000 Usable SF self-storage facility and approximately 6,000 SF of one-story outside storage. The Subject Property is located off Senoia Road within a commercial development project which includes a QuikTrip, Wash Me Fast Car Wash, and a Cracker Barrell Restaurant. The Subject Property has no frontage along Senoia Road, but the Subject Property has access off the private driveway which loops around the rear of the QuikTrip and is located to the rear of the Peachtree Landing Apartment Community, which is accessed through Senoia Road. In connection with the development of the proposed self-storage facility, the Applicant is seeking the following concurrent variances with the submission of the required Use Permit Application for the proposed development:

1. Reduction of the front yard setback from 50ft to 35ft for part of the frontage in the northeast corner of the tract as shown on the submitted site plan;
2. Reduction of the buffer adjacent to residentially zoned property from 100ft to 50ft.

JUSTIFICATION

It is the Applicant's contention that: (a) relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the zoning resolution, and (b) due to extraordinary and exceptional conditions pertaining to the Subject Property because of its size and shape of the property along with the existing in place sewer line and easement, the application of the Highway 74 Overlay District

Setback requirements to the Subject Property as set forth in the City of Fairburn Zoning Ordinance, would create an unnecessary hardship for the Applicant while causing no detriment to the public. To support these contentions, the Applicant points to the following:

1. The Subject Property is an irregularly shaped parcel of land, that has nine (9) sides with no frontage on a public right of way. When combining the 100 ft buffer and with the 50 ft setback, the buildable envelop on the Subject Property is severely impacted in a manner that is inconsistent with the balance of the lots within the commercial development, which are not negatively impacted by these requirements. Due to the Subject Property lacking frontage on a clearly defined public right of way, what would otherwise be considered a side yard of the Subject Property is being construed as a front yard, despite the fact this "front yard" sits behind the rear yard of the car wash. Additionally, the 100ft buffer prohibits any development within the buffer, which means that both the building and drive way would have to be pushed further east on the site in a manner which would significantly reduce the size of the proposed improvements.

2. The requested relief will have no negative impact on the adjacent uses, including the Peachtree Landing apartment complex. The 50ft buffer is what is required outside of the Highway 74 Overlay District. The proposed used of the Subject Property as a self-storage facility will result in significantly less disruption to the quiet enjoyment of the residents at Peachtree Landing than other possible commercial use of the Subject Property. As the building has no window or doors on the rear of the building, the buildings themselves stand as a barrier to the residential uses, when combined with the landscaping that will be completed along with the proposed improvements in order to enhance the buffer.

Regarding the front yard setback reduction, it is only needed for the portion of the Subject Property that runs behind the rear yard of the car wash property. Consequently, this reduction will have no negative impact on the adjacent property, as they share a common driveway and curb cuts that allow for inter-parcel connectivity. Therefore, it is the Applicant's opinion that the proposed variances being requested are in harmony with the general intent of the Fairburn Zoning Ordinance.

Based upon the foregoing, the Applicant is hereby requesting approval of this Application.

CONSTITUTIONAL ALLEGATIONS

The portions of the Zoning Resolution of City of Fairburn as applied to the Subject Property which classify or may classify the 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 City of Fairburn 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 Fairburn Board of Zoning Appeals 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.



USE PERMIT CONSIDERATIONS

Applicant: Iron Horse Interests, LLC

Analyze the impact of the proposed use permit with the following questions:

1. Whether the proposed use is consistent with the comprehensive land use plan adopted by the City Council? The land use designation for the Subject Property is Highway Mixed Use, and the proposed use of the Subject Property is consistent with the policies and intent of the land use designation.
2. Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed? The Subject Property is surrounded by property zoned C-2 and RM-8. The existing uses include a car wash, gas station, restaurant and apartment complex. The proposed use as a self-storage facility is compatible with these surrounding uses.
3. Whether the proposed use may violate local, state, and/or federal statutes, ordinances or regulations governing land development? The Proposed use does not violate local, state, and/or federal statutes, ordinances or regulations governing land development.
4. The effects of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets? The proposed use as a self-storage facility will have minimal impact on traffic flow, and vehicular and pedestrian use along adjoining streets. The Subject Property abuts a private street which then connects with Senoia Road which is a arterial right of way with ample capacity for the project.
5. The location and number of off-street parking spaces? There is a total of 18 off street parking space located on the Subject Property near the entrance points to the Subject Property.
6. The amount and location of open spaces? 28% of the Subject Property is open space. The Applicant is proposing a 50ft landscape buffer adjacent to the multi-family property East of the Subject Property.
7. Protective screening? Fencing will be installed along the interior of the 50ft transitional buffer as shown on the submitted site plan.
8. Hours and manner of operation? Gate hours will be 6:00am until 10:00pm with store hours being from 9:30am until 6:00pm Monday thru Friday, 9:00am until 5:30pm on Saturdays, and closed on Sundays.

9. Outdoor lightning? Outdoor lighting will be provided and will be downward facing in order to avoid glare on the adjacent properties.

10. Ingress and egress to the property? There will be one full service entrance off of the private driveway, and one exit only driveway as shown on the site plan.

Attach additional sheets as needed.

Re: USE PERMIT 19U-002 with concurrent
variances 19CV-004 and 19CV-005
Property of Equity Retail, LLC & Guthrie
Ravin Development, LLC
7935 Senoia Road
09F070300270368
2.648 acres; Land Lot 27
District 9F
Fairburn, Fulton County, Georgia

AN ORDINANCE GRANTING THE APPLICANT, IRON HORSE INTERESTS, LLC, A USE PERMIT WITH TWO CONCURRENT VARIANCES (19CV-004 & 19CV-005) TO ALLOW A MULTI-STORY SELF-STORAGE FACILITY WITH ASSOCIATED VEHICLE PARKING; TO IDENTIFY THE CONDITIONS ATTACHED TO THE GRANT OF THE USE PERMIT; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBURN, GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME THAT:

Whereas, Chapter 80, Article IV, Administrative Permits and Use Permits, Section 80-232 – Self Storage/Multi, of the City of Fairburn Zoning Ordinance requires that a Use Permit be obtained to operate a self-storage facility; and

Whereas, Chapter 80, Article IV, Section 80-171 of the City of Fairburn Zoning Ordinance requires approval of the Use Permit by the City of Fairburn City Council; and

Whereas, the City of Fairburn Zoning Ordinance allows for the operation of a multi-story self-storage facility in the C-1 (Neighborhood Commercial District) and C-2 (General Commercial District) within the City of Fairburn only by way of a use permit, describes the objective criteria to be evaluated in deciding whether to grant a requested use permit, and permits City Council to attach other conditions that it deems necessary to protect the environment as well as the public health, safety and welfare; and

Whereas, the Applicant, Iron Horse Interests, LLC seeks a use permit with two concurrent variances for a multi-story self-storage facility in the C-2 (General Commercial District), in accordance with its application, 19U-002, 19CV-004 and 19CV-005, in order to operate a multi-story self-storage facility with associated vehicle parking at the location 7935 Senoia Road, with parcel identification number 09F070300270368 as described in Exhibit A; and

Whereas, pursuant to the requirements of the Zoning Procedures Act and the City Zoning Ordinance, a properly advertised public hearing was held not less than 15 nor more than 45 days from the date of publication of notice, and which public hearing was held on the 10th day of June, 2019; and

Whereas, pursuant to Chapter 80. Article IV, Section 80-171(5)(b) of the City of Fairburn Zoning Ordinance, the Use Permit, if granted, shall expire within three years from the date of approval of this resolution, unless a land disturbance permit, building permit, business license or certificate of occupancy has been issued.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Fairburn, Georgia:

Section 1. That a use permit is granted to the Applicant, Iron Horse Interests, LLC, in accordance with Chapter 80, Article IV.- Administrative Permits and Use Permits of the City of Fairburn Zoning Ordinance in order to operate a multi-story self-storage facility in the C-2 (General Commercial District) at the location 7935 Senoia Road with parcel identification number 09F070300270368, the City of Fairburn City Council concluding that the use permit should be granted, subject to certain conditions.

Section 2. That the granted use permit is limited by the following conditions:

A. To the owner's agreement to abide by the following:

1. The property shall be developed in substantial conformity with the Site Plan prepared by Falcon Design, stamped received April 29, 2019 and attached as Exhibit B. Any determination as to "substantial conformity" and deviation from the site plan shall be approved by the Community Development Department staff. The site plan must meet or exceed the requirements of the City's regulations prior the approval of a Land Disturbance Permit.

B. To the owner's agreement to the following site development considerations:

1. All front facades shall consist of all brick construction. Stucco (EIFS) shall be prohibited.
2. Sidewalks on all street frontages shall be a minimum of five-feet and shall be constructed to comply with the requirements of the Americans with Disabilities Act (ADA) standards and City of Fairburn development standard.
3. All utilities shall be installed underground throughout the project area.
4. A commercial driveway shall be required at the proposed entrance. Commercial drives need to extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
5. All pavement markings installed on asphalt within the public right-of-way shall be thermoplastic material; 1.5-inch black contact tape shall be installed for crosswalks on concrete.

6. The minimum distance between driveways shall be 125' based on a speed limit of 25 mph. Spacing between driveways shall be measured from radius-return to radius-return.

7. A 50-foot undisturbed vegetated buffer shall be installed adjacent to residentially zoned property. A combination of existing trees and newly planted trees (where insufficient vegetation exists) shall be installed to establish the buffer. New trees shall be 8'-10' in height at the time of installation. Newly planted trees shall consist of one or a combination of the following trees: Leyland Cypress, Easter Red Cedar, Southern Magnolia, Virginia Pine, Arborvitae, Savannah Holly, Nellie R. Steven Holly.

Section 3. That concurrent variance 19CV-004 to the use permit is granted as follows:

1. To reduce the buffer adjacent to residentially zoned property from 100 feet to 50 feet.

Section 4. That concurrent variance 19CV-005 to the use permit is granted as follows:

1. To reduce the front yard setback from 50 feet to 35 feet.

Section 5. In the event any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions of the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part thereof. The City Council declares that it would have passed the remaining parts of this Ordinance or retained the previously existing Ordinance if it had known that such part of parts hereof would be declared or adjudicated invalid or unconstitutional.

Section 6. This Ordinance shall become effective on the 10th day of June, 2019.

Section 7. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed to the extent of the conflict.

APPROVED this 10th day of June, 2019, by the Mayor and Council of the City of Fairburn, Georgia.

Elizabeth Carr-Hurst, Mayor

ATTEST:

Shana T. Moss, Interim City Clerk

APPROVED AS TO FORM:

William R. (Randy) Turner, City Attorney

Re: USE PERMIT 19U-002 with concurrent
variances 19CV-004 and 19CV-005
Property of Equity Retail, LLC & Gutherie
Ravin Development, LLC
7935 Senoia Road
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2.648 acres; Land Lot 27
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Whereas, pursuant to the requirements of the Zoning Procedures Act and the City Zoning Ordinance, a properly advertised public hearing was held not less than 15 nor more than 45 days from the date of publication of notice, and which public hearing was held on the 10th day of June, 2019; and

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B. To the owner's agreement to the following site development considerations:

1. All front facades shall consist of all brick construction. Stucco (EIFS) shall be prohibited.
2. Sidewalks on all street frontages shall be a minimum of five-feet and shall be constructed to comply with the requirements of the Americans with Disabilities Act (ADA) standards and City of Fairburn development standard.
3. All utilities shall be installed underground throughout the project area.
4. A commercial driveway shall be required at the proposed entrance. Commercial drives need to extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
5. All pavement markings installed on asphalt within the public right-of-way shall be thermoplastic material; 1.5-inch black contact tape shall be installed for crosswalks on concrete.

6. The minimum distance between driveways shall be 125' based on a speed limit of 25 mph. Spacing between driveways shall be measured from radius-return to radius-return.

7. A 50-foot undisturbed vegetated buffer shall be installed adjacent to residentially zoned property. A combination of existing trees and newly planted trees (where insufficient vegetation exists) shall be installed to establish the buffer. New trees shall be 8'-10' in height at the time of installation. Newly planted trees shall consist of one or a combination of the following trees: Leyland Cypress, Easter Red Cedar, Southern Magnolia, Virginia Pine, Arborvitae, Savannah Holly, Nellie R. Steven Holly.

Section 3. That concurrent variance 19CV-004 to the use permit is granted as follows:

1. To reduce the buffer adjacent to residentially zoned property from 100 feet to 50 feet.

Section 4. That concurrent variance 19CV-005 to the use permit is granted as follows:

1. To reduce the front yard setback from 50 feet to 35 feet.

Section 5. In the event any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions of the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part thereof. The City Council declares that it would have passed the remaining parts of this Ordinance or retained the previously existing Ordinance if it had known that such part of parts hereof would be declared or adjudicated invalid or unconstitutional.

Section 6. This Ordinance shall become effective on the 10th day of June, 2019.

Section 7. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed to the extent of the conflict.

APPROVED this 10th day of June, 2019, by the Mayor and Council of the City of Fairburn, Georgia.

Elizabeth Carr-Hurst, Mayor

ATTEST:

Shana T. Moss, Interim City Clerk

APPROVED AS TO FORM:

William R. (Randy) Turner, City Attorney

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 27 OF THE 9TH DISTRICT OF FULTON COUNTY, GEORGIA, SHOWN AS TRACT 2 OF SUBDIVISION PLAT RECORDED IN PLAT BOOK 387 PAGE 20, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN SET FOR THE NORTHEASTERLY CORNER OF LOT 2, SAID PIN LOCATED NORTH 88 DEGREES 45 MINUTES 09 SECONDS WEST A DISTANCE OF 380.00 FEET FROM THE SOUTHWESTERLY CORNER OF THE INTERSECTION OF S.R. 74 (AKA SENOIA ROAD; RIGHT-OF-WAY WIDTH VARIES), AND PEACHTREE LANDING CIRCLE (PRIVATE STREET);

THENCE, SOUTH 00 DEGREES 01 MINUTES 46 SECONDS WEST A DISTANCE OF 168.15 FEET TO AN IRON PIN SET;

THENCE, NORTH 89 DEGREES 59 MINUTES 23 SECONDS EAST A DISTANCE OF 120.00 FEET TO A PK NAIL SET;

THENCE, SOUTH 00 DEGREES 00 MINUTES 37 SECONDS EAST A DISTANCE OF 105.00 FEET TO AN IRON PIN SET;

THENCE, SOUTH 89 DEGREES 59 MINUTES 23 SECONDS WEST A DISTANCE OF 60.00 FEET TO A 1/2 INCH REBAR AND CAP;

THENCE, SOUTH 00 DEGREES 00 MINUTES 37 SECONDS EAST A DISTANCE OF 57.48 FEET TO A PK NAIL SET;

THENCE, NORTH 89 DEGREES 04 MINUTES 18 SECONDS WEST A DISTANCE OF 408.39 FEET TO A 1/2 INCH REBAR AND CAP (DISTURBED);

THENCE, NORTH 00 DEGREES 00 MINUTES 24 SECONDS WEST A DISTANCE OF 157.02 FEET TO A 1/2 INCH REBAR;

THENCE, NORTH 50 DEGREES 47 MINUTES 35 SECONDS EAST A DISTANCE OF 100.06 FEET TO A 1/2 INCH REBAR;

THENCE, NORTH 41 DEGREES 06 MINUTES 41 SECONDS EAST A DISTANCE OF 53.72 FEET TO A 1/2 INCH REBAR;

THENCE, NORTH 36 DEGREES 17 MINUTES 48 SECONDS EAST A DISTANCE OF 36.22 FEET TO A 1/2 INCH REBAR;

THENCE, NORTH 36 DEGREES 40 MINUTES 48 SECONDS EAST A DISTANCE OF 36.24 FEET TO A 1/2 INCH REBAR;

THENCE, NORTH 32 DEGREES 39 MINUTES 10 SECONDS EAST A DISTANCE OF 10.77 FEET TO A 1/2 INCH REBAR;

THENCE, SOUTH 88 DEGREES 45 MINUTES 09 SECONDS EAST A DISTANCE OF 186.70 FEET TO THE **POINT OF BEGINNING**.

SAID TRACT OR PARCEL OF LAND CONTAINING **2.648 ACRES (115.335 SQUARE FEET)**.

Exhibit A

194-002



**CITY OF FAIRBURN
MAYOR AND CITY COUNCIL
AGENDA ITEM**

SUBJECT: REZONING 19RZ-004 - Geo H. Green Oil Company [DRI # 2926]

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (X) OTHER

Planning and Zoning Commission: 05.07.19

Mayor and City Council: 06.10.19

DEPARTMENT: Community Development/Planning and Zoning Office

BUDGET IMPACT: None

PUBLIC HEARING: (X) Yes () No

PURPOSE: For the Mayor and City Council to review and consider a rezoning petition to allow the development of 50 additional truck parking spaces at the Fairburn Travel Center.

DESCRIPTION: The applicant is requesting to rezone +/- 4.387 acres from C-2 (General Commercial District) to M-1 (Light Industrial District) to allow 50 truck parking spaces.

PLANNING & ZONING COMMISSION RECOMMENDATION: APPROVAL CONDITIONAL

STAFF RECOMMENDATION: APPROVAL CONDITIONAL


Elizabeth Carr-Hurst, Mayor

APPLICATION INFORMATION

Rezoning Petition 19RZ-002 [DRI # 2926]

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner
W&W Realty Company, LLC	Geo. H. Green Oil Company

PROPERTY INFORMATION

Address: Harris Road [parcel no. 09F070000265346]

Land Lot and District: Land Lot 26 and District 9F

Frontage: Harris Road

Area of Property: +/- 4.387 acres

Existing Zoning and Use: C-2 (General Commercial District) and Undeveloped

Overlay District: N/A

Prior Zoning Cases/History: The property was annexed and rezoned [C-2] into the City in November 2007. The current use on the property was in compliance at the time of the rezoning. When the ordinance was revised in 2012, truck stops were moved to M-1 (Light Industrial District) leaving the use as legally non-conforming. The Fairburn Travel Center rezoned 16.883 acres in 2016 from C-2 (General Commercial District) to M-1 (Light Industrial District) to allow the expansion of the existing truck stop.

2035 Comprehensive Future Land Use Map Designation: Highway Mixed Use

Compatibility with Fairburn's 2035 Comprehensive Plan: The request to rezone property from C-2 (General Commercial District) to M-1 (Light Industrial District) to allow 50 additional truck parking spaces is not compatible with the 2035 Comprehensive Plan and Future Development Map.

Proposed Zoning: M-1 (Light Industrial District)

MEETING AND HEARING DATES

Planning and Zoning Commission Meeting
May 7, 2019

Mayor and City Council Public Hearing
June 10, 2019

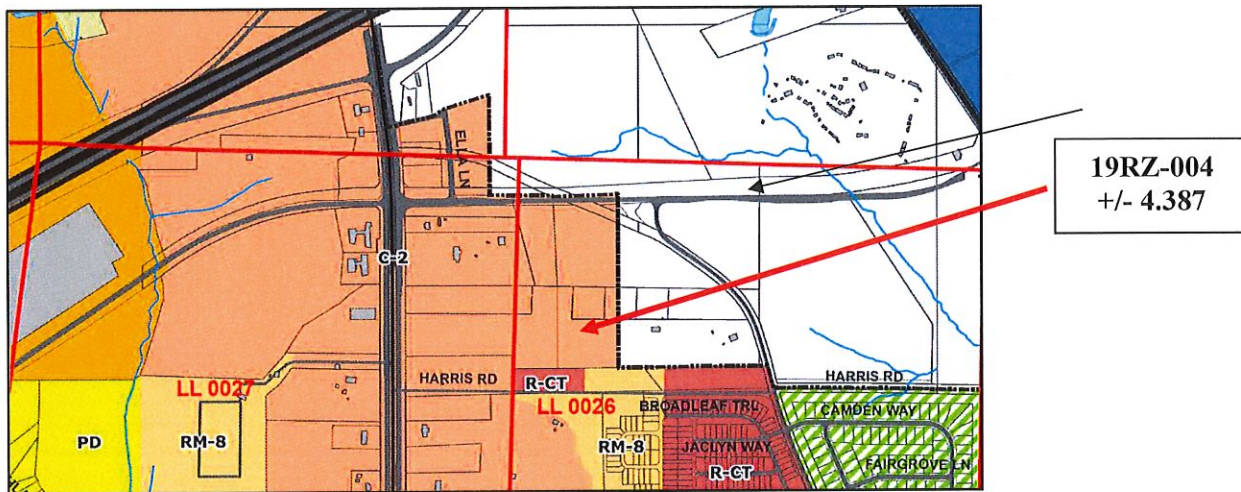
INTENT

To rezone the subject property from C-2 (General Commercial District) to M-1 (Light Industrial District) to allow 50 additional truck parking spaces.

EXISTING LAND USE AND ZONING OF ABUTTING PROPERTIES

North: M-1 (Light Industrial District)
East: City of South Fulton
South: C-2 (General Commercial District)
West: C-2 (General Commercial District)

ZONING MAP



PUBLIC PARTICIPATION

The applicant held a public meeting on Thursday, March 28, 2019 from 6:00 p.m. to 7:00 p.m. at the County Inn & Suites by Radisson [7815 Senoia Road, Fairburn]. There were approx. thirteen property owners present at the meeting. The property owners expressed the following concerns about the proposed development:

- Upkeep of roads, pollution from diesel fuel and safety
- Increase in home values, noise, crime
- Increase in truck traffic

The applicant provided the following response to the issues and concerns in the Public Participation Report:

- Will this change increase the traffic? The traffic already exists. Truckers are only allowed to deliver their products to the warehouses between a set timeframe and if they are in the areas before their designated delivery time they need to find a place to park and wait. Currently, they are parking wherever they want, side of the highway ramp, other business parking lots, and on the side of roads. The new parking spots give these trucks a place made for them to park.
- Who is going to maintain the road? The City of Fairburn makes the decision of when and what roads are maintained. Harris Road has been approved and constructed by the City to allow truck traffic from the exit of the travel center to Hwy 74.
- Will the trucks cause pollution? The trucks are already in the area. Whatever pollution they are causing is an existing issue.

- How will this change home values in the area? Don't know, however the housing market is very strong in the metro Atlanta area. Additional, housing is currently under construction in the area surrounding the travel center. In addition, as required by the City of Fairburn, Green Oil will landscape the rezoned area.
- What about the safety of residents and cars trying to get through the area? There is an existing traffic pattern (posted traffic signs) that trucks leaving the travel center must turn right on Harris Road and proceed to Senoia Road (Hwy 74). Trucks must enter the travel center via Oakley Industrial Blvd.

STAFF COMMENTS

Engineering/Public Works:

1. (a) In the event that a development has access to a substandard street and if that substandard street provides the primary means of access to the development, the substandard street, except as indicated in subsection (c) of this section, shall be fully upgraded and the full width of the roadway overlaid with asphaltic concrete surface course along the entire property frontage and continuing to the nearest standard paved road along the route of primary access.
 (b) In the event that a development has access to a substandard street and if that substandard street is other than the primary means of access to the development, the substandard street, except as indicated in subsection (c) of this section, shall be fully upgraded only along the entire property frontage and shall be paved on the opposite side of the road from the development, 12 feet from the street centerline.
 (c) The upgrading of substandard streets used for access will not be required if any of the following conditions are met:
 - The development consists of a single, one-family or two-family residence on an existing recorded lot within the city.
 - The development is a small business with ingress/egress of less than 100 vehicles per day.
 [Sec. 71-39]
2. Turning lanes shall be required by the city to meet projected traffic demand and/or safe operations, as determined by the city engineer. When provided, turning lanes shall meet the following criteria:
 - Provide not less than 150 feet of storage length for arterial roadways. Provide not less than 100 feet of storage length for collector roadways.
 - Provide taper lengths of not less than 100 feet.
 - Longer storage and taper lengths may be required when traffic projections indicate they are justified.
 [Sec. 71-38(4)]
3. Sidewalks are required on all street frontages. All sidewalks shall have a minimum width of five feet (unless otherwise provided in this chapter) and shall be constructed to comply with the requirements of the Americans with Disabilities Act (ADA) standards, city's development standards and be subject to review and approval by the city engineer and/or director of building. [Sec. 71-46 (a) (c)]
4. All pavement markings installed on asphalt within the public right-of-way shall be thermoplastic material; 1.5-inch black contract tape shall be installed for crosswalks on concrete.
5. Dry detention ponds shall be designed to provide for positive drainage on the pond floor to the outlet of the pond. Side slopes shall be designed to have a maximum of three-feet horizontal to one-foot vertical (3:1) slopes. If the 100-year maximum water surface depth is equal to or greater than four feet, then a black, vinyl-coated, four-foot-high chain-link fence with top and bottom rails shall be constructed around the detention pond with a 20-foot gate provided to allow access.
 [Sec. 65-391 (a)]

Fire: Reviewed; no comments at this time.

Water and Sewer: No Comments at this time.

Utilities: No comments at this time.

Heath & Human Services:

EHS Comments

- Fulton County Board of Health requires that the proposed facility be served by public water and public sanitary sewer which are available to the site.
- This department recommends that the existing building(s) is (are) inspected and the owner/operator is required to provide the internal plumbing and sanitary facilities necessary to serve the existing and proposed uses and building capacity.
- This department is requiring that solid waste plans be submitted for review and approval.

General Public Health and Environmental Justice Comments

- Although a parking lot addition in itself is not considered an environmentally adverse use, the Fulton County Board of Health recommends that policy or practices to reduce idling be implemented at this site to reduce the diesel exhaust particulate matter from diesel engines which have an impact on public health and/or air quality. Diesel exhaust particulate matter is a toxic air contaminant and contains known carcinogens.
- No conclusion can be drawn from the available information regarding any anticipated significant change in magnitude of impact of this proposal beyond what already exists from the current use.

ZONING IMPACT ANALYSIS

A. Does the proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?

Staff is of the opinion that the proposed use is suitable in view of the use and development of adjacent and nearby property. The surrounding area consists of: M-1 (Light Industrial District) to the north, City of South Fulton to the east, C-2 (General Commercial District) to the south, and C-2 (General Commercial District) to the west. The Fairburn Travel Center was annexed and rezoned [C-2] into the City in November 2007 and in 2016 the property was rezoned to M-1 (Light Industrial District). The applicant's intent is to construct 50 truck parking spaces on 4.387 acres. The additional truck parking spaces will be a part of the existing use of the property for a truck stop.

B. Does the proposal adversely affect the existing use or usability of adjacent or nearby property?

Staff is of the opinion that the proposal if approved will not have an adverse impact on the use or usability of adjacent or nearby properties. The surrounding properties have a variety of uses, including restaurants, hotels, gas stations, warehouses and apartments. The purpose of the rezoning is to make the zoning of the 4.387 acres to be consistent with the zoning of the existing property [Fairburn Travel Center].

C. Does the property have a reasonable economic use as currently zoned?

Staff is of the opinion that the subject property has a reasonable economic use as currently zoned.

D. Will the proposal result in a use that could cause excessive or burdensome use of existing streets, transportation facilities, utilities or schools?

Impact on Traffic

Staff is of the opinion that the proposal will not result in a use which will cause an excessive or burdensome use of the existing infrastructure. The truck stop currently exists and the addition of 50 truck parking spaces will not create an excessive or burdensome use of the existing street. The additional 50 truck parking spaces will provide parking for existing truck traffic in the area. Increasing the truck parking supply will provide safe authorized parking for truck which will help alleviate illegal parking on public roads and lead to safer roads. This petition qualified as a Development of Regional Impact (DRI). It was reviewed by the Atlanta Regional Commission (ARC), GDOT, and Georgia Regional Transportation Authority (GRTA). GRTA has approved the petition with no conditions and GDOT did not recommend upgrades to state route Hwy 74.

Trip Generation:

The new truck parking site will generate 206 daily vehicle trips, about 5% more than the existing truck stop, gas pumps and convenience market. Approximately 80% (165 trips) are expected to be trucks and approximately 41 trips would be cars because some truck drivers also use their assigned space for a passenger car on occasions. The trip generation for this project is presented in the table below:

Land Use	Size	Trip Rate	Weekday Trips	Additional as % of Total
Truck Stop	4.387	81.86	206	
New Traffic			206	5.39%

E. Is the proposal in conformity with the policies and intent of the land use plan?

The staff is of the opinion that the proposal is not consistent with the Future Development Map, which designates the property as Highway Mixed Use. However, the use [truck stop] has existed in this location since 2007 and has been in harmony with the surrounding uses. The rezoning of the 4.387 acres will make the zoning of the property consistent with the truck stop property.

The City has numerous warehouses in the area that use the Senoia Road/Highway 74 corridor to access Interstate 85. The truck stop provides a safe and legal place to park large trucks so other businesses and motorists are not inconvenienced by the oversized vehicles. The Atlanta Regional Commission (ARC) has identified a shortage of truck parking spaces in the area. Trucks parking in and along public roads, typically while waiting for an available dock at a nearby facility, is an identified issue in many areas of the region that negatively impacts roadway operations, safety and congestion. Adding additional truck parking spaces will assist with alleviating trucks from parking illegally on public roadways, which will make the roads safer.

As stated in the 2035 Comprehensive Plan, the Highway Mixed Use Development Strategies are:

- Vibrant commercial corridors that provide a comprehensive array of goods and services to Fairburn residents as well as Coweta and Fayette County residents
- Smaller scale, walkable retail centers with a variety of stores and shops
- Developments that are accessible and safe for pedestrians and cyclists, as well as automobiles

F. Are there existing or changing conditions that affect the use and development of the property which support either approval or denial of the proposal?

Staff is of the opinion that there are existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval of the applicant's proposal. With the significant number of warehouses in the area [and rapidly growing freight and logistics industry within the Atlanta region] and the federal mandate for Electronic Logging Devices (ELDs) to digitally monitor truck drivers Hours-of-Services (HOS) requirements, adequate parking facilities for trucks is needed.

The Atlanta Regional Commission's (ARC) Truck Parking Assessment Study findings states:

1. There is a lack of parking supply throughout the region that will worsen in the future.
2. I-285 is particularly challenging for truck parking.
3. The mandatory requirement for Electronic Logging Devices (ELDs) within all commercial vehicles is projected to increase demand for parking.
4. Significant ongoing growth of industrial development in the Atlanta Region is expected to increase truck volumes and parking demand.
5. Recommended solutions vary based upon perspective within the trucking industry

One of the recommendations specified in the truck parking study is to "add/expand truck parking supply".

G. Does the proposal permit a use that can be considered environmentally adverse to the natural resources, environment, and citizens of Fairburn?

Staff is of the opinion that the proposal would not permit a use which could be considered environmentally adverse to the natural resources, environment, or citizens of Fairburn.

STAFF RECOMENDATION

It is the opinion of staff that the rezoning request is not in conformity with the current Future Development Map, which recommends Highway Mixed Use. However, the request to rezone +/- 4.387 acres from C-2 (General Commercial District) to M-1 (Light Industrial District) to allow 50 truck parking spaces will provide additional parking spaces for existing truck traffic in the area. The Fairburn Travel Center was annexed and rezoned into the City of Fairburn in November 2007 and in 2016 the property was rezoned to M-1 (Light Industrial District). Rezoning the remaining 4.387 acres will make the zoning of the property consistent with the current zoning of the Fairburn Travel Center.

According the Atlanta Regional Commission Truck Parking Assessment Study (2018) one of the biggest challenges faced by truck drivers in the country today is finding safe, authorized parking for their vehicles and cargo. As freight and logistics levels continue to quickly grow within the Atlanta region and state of Georgia, the challenges associated with truck parking have followed suit. Due to the severe shortage of truck parking spaces in the area, often times truckers park illegally on public roads. Trucks parked on ramps and roadside create safety issues because they block the view of other vehicles increasing the likelihood of crashes. Increasing the truck parking supply will provide safe authorized parking for truck which will help alleviate illegal parking on public roads and lead to safer roads. As mentioned in the ARC DRI Review Findings, the additional 50 truck parking spaces offers the potential to enable efficiencies in intraregional, interregional and interstate freight movement given the site's access to SR 74 and I-85, and its proximity to nearby warehousing and industrial areas, including along Oakley Industrial Boulevard to the north. Therefore, based on these reasons, staff recommends **APPROVAL CONDITIONAL** of the rezoning petition.

Should the Mayor and City Council decide to rezone the subject property from C-2 (General Commercial District) District) to M-1 (Light Industrial District) the staff recommends the following conditions. The applicant's agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Truck stop and accessory uses
 - b. Permitted uses under C-2 (General Commercial District)
2. To the owner's agreement to provide the following site development standards:
 - a. A 25-foot undisturbed vegetated buffer shall be installed along Harris Road to provide screening. A combination of existing trees and newly planted trees (where insufficient vegetation exists) shall be installed to establish the buffer. New trees shall be 8'-10' in height at the time of installation. Newly planted trees shall consist of one or a combination of the following trees: Leyland Cypress, Easter Red Cedar, Southern Magnolia, Virginia Pine, Arborvitae, Savannah Holly, Nellie R. Stevens Holly.

ATTACHMENTS

Letter of Intent
Impact Analysis
Traffic Impact Study Tables 1-3
ARC DRI Findings
Conceptual Site Plan

Re: REZONING ORDINANCE 19RZ-004
Property of W&W Realty Company, LLC
Harris Road
09F070000265346
4.387 acres; Land Lot 26
District 9F
Fairburn, Fulton County, Georgia

**STATE OF GEORGIA
COUNTY OF FULTON**

AN ORDINANCE TO REZONE CERTAIN PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF FAIRBURN FROM C-2 (GENERAL COMMERCIAL DISTRICT) TO M-1 (LIGHT INDUSTRIAL DISTRICT); TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBURN, GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME:

Section 1. That the City of Fairburn Zoning Ordinance be amended, and the official maps established in connection therewith be changed so that the property located in the City of Fairburn as indicated on Exhibit "A" to this Ordinance be changed from C-2 (General Commercial District) to M-1 (Light Industrial District) with the following conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Truck stop and accessory uses
 - b. Permitted uses under C-2 (General Commercial District)
2. To the owner's agreement to abide by the following site development standards:
 - a. A 25-foot undisturbed vegetated buffer shall be installed along Harris Road to provide screening. A combination of existing trees and newly planted trees (where insufficient vegetation exists) shall be installed to establish the buffer. New trees shall be 8' – 10' in height at the time of installation. Newly planted trees shall consist of one or a combination of the following trees: Leyland Cypress, Easter Red Cedar, Southern Magnolia, Virginia Pine, Arborvitae, Savannah Holly, Nellie R. Stevens Holly.

Section 2. That the property shall be developed in compliance with the conditions of approval as stated in this Ordinance. Any conditions hereby approved do not authorize the violation of any district regulations; and

Section 3. That the official maps referred to, on file in the Office of the City Clerk, be changed to conform with the terms of this Ordinance; and

Section 4. In the event any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions of the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part thereof. The City Council declares that it would have passed the remaining parts of this Ordinance or retained the previously existing Ordinance if it had known that such part of parts hereof would be declared or adjudicated invalid or unconstitutional.

Section 5. Pursuant to the requirements of the Zoning Procedures Act and the City Zoning Ordinance, a properly advertised public hearing was held not less than 15 nor more than 45 days from the date of publication of notice, and which public hearing was held on the 10th day of June, 2019; and

Section 6. This Ordinance shall become effective on the 10th day of June, 2019.

Section 7. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed.

APPROVED this 10th day of June, by the Mayor and Council of the City of Fairburn, Georgia.

Elizabeth Carr-Hurst, Mayor

ATTEST:

Shana T. Moss, Interim City Clerk

APPROVED AS TO FORM:

William R. (Randy) Turner, City Attorney



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: Creation of Volunteer Police Department Reserve Unit

☐ AGREEMENT ☐ POLICY / DISCUSSION ☐ CONTRACT
☐ ORDINANCE ☐ RESOLUTION ☒ OTHER

Submitted: 05-30-2019 Work Session: 06-10-2019 Council Meeting: 06-10-2019

DEPARTMENT: Police

BUDGET IMPACT: \$1,000

PUBLIC HEARING? ☐ Yes ☒ No

PURPOSE: The Police Department is requesting authorization to implement a four officer Reserve Unit. This unit will be primarily responsible for Court Security.

HISTORY: The prior iteration of the police department reserve unit had a scope that was too broad. The reserve officers were not properly managed or given specific assignments. In reforming the reserve unit, these officers will only be responsible for court security and special events as needed.

FACTS AND ISSUES: The Police Department will not pay for reserve officers to attend the police academy. The majority of their needed equipment can be obtained from existing stock within the Police Department. Reserve officers will not receive a wage as their work will be volunteer only. Reserve officers will not operate city vehicles.

ADMINISTRATOR'S COMMENTS:

RECOMMENDED ACTION:


Elizabeth Carr-Hurst, Mayor



Fairburn Police Department

Stoney Mathis

Chief of Police

191 SW Broad Street
Fairburn, GA 30213

Phone: 770-964-1441
Fax: 770-774-7908



DATE: 12 April 2019
TO: Chief S. Mathis
FROM: Lt. E. Eiswerth
SUBJECT: Proposal on Establishment of a Reserve Unit

PROPOSAL: To establish a Fairburn Police Reserve Unit within the agency. This unit would be employees of the agency, however would not be eligible for Fairburn payroll and only work on a volunteer basis. Our proposal will be the approval of four (4) certified Reserve Officers.

REASON: Officers in the Fairburn Police Reserve Unit would solely be tasked with providing security at all monthly scheduled court dates, which currently stands at 3 separate days per month (Thursdays). This responsibility would alleviate the current protocol of having Patrol Officers provide security at court, which holds those respective officers out-of-service and unable to respond to calls-for-service. A change to the use of the Fairburn Reserve Unit would result in more officers in-service and patrolling the community in order to deter criminal activity.

REQUIREMENTS: Those interested in joining the Fairburn Reserve Unit will go through the same hiring process as those interested in applying for full-time positions. Those interested individuals will have to be certified through Georgia Peace Officer Standards and Training Council and required to maintain the mandatory 20 hours of POST certified training hours. As part of their participation in the Reserve Unit, each Reserve Officer will be required to complete 20 hours of service, most of which will come from providing security during court proceedings.

SAVINGS:

- Ballistic vests will be provided using our current stock for a savings of \$3,200
- Utilizing some of our stock of gear, the agency will be able to outfit some gear that will have an unknown amount in savings
- Current stock of Glock 17 and Glock 21 will be issued for a savings of \$400+ per
- Current use of 3 patrol officers remaining in-service rather than providing court security: 5 hours per court date for 3 court dates equals estimated 15 hours per officer for total of **45 hours of officer time in a month.**
- The Reserve Officer's expectations will not require an assigned patrol vehicle as the unit's responsibility does not include routine patrol and/or use of a patrol vehicle.

COST: The total estimated cost to enact the Reserve Unit will be minimal and include only the cost of the initial polygraph examination during the pre-hiring process. **Total estimated cost to the agency per Reserve Officer is approximately \$250 or \$1,000 in total.**



CITY OF FAIRBURN
CITY COUNCIL AGENDA ITEM

SUBJECT: Police Department – Speed limit reduction on Meadow Glen Parkway

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (X) OTHER

Submitted: 05/28/2019 Work Session: 06/10/2019 Council Meeting: 06/10/2019

DEPARTMENT: Police

BUDGET IMPACT: N/A

PUBLIC HEARING? () Yes (X) No

PURPOSE: The police department is requesting that the speed limit on Meadow Glen Parkway be reduced from 35 mph to 25 mph.

HISTORY: Several homes in this area have yards that border Meadow Glen Parkway. These yards are not fenced and present a safety hazard to residents. Originally Meadow Glen Parkway was supposed to be a main thoroughfare between Hwy. 74 and Bohannon Road. However, to date, Meadow Glen Pkwy stops in a dead end inside the subdivision.

FACTS AND ISSUES: The police department has received complaints from residents and agrees that the speed limit should be reduced for the safety of citizens.

RECOMMENDED ACTION: Approval to reduce the posted speed limit on Meadow Glen Parkway from 35 mph to 25 mph.


Elizabeth Carr-Hurst, Mayor



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: 2019 Qualifying Dates for the General Election.

☐ AGREEMENT ☐ POLICY / DISCUSSION ☐ CONTRACT
☐ ORDINANCE ☒ RESOLUTION ☐ OTHER

Submitted: 05-30-2019 **Work Session:** 06-10-2019 **Council Meeting:** 06-10-2019

DEPARTMENT: Office of the City Clerk

BUDGET IMPACT: N/A

PUBLIC HEARING? ☐ Yes ☒ No

PURPOSE: Consideration and action on Resolution designating 2019 Qualifying Dates for the General Election on November 5, 2019.

HISTORY: This Resolution will designate August 19th, 20th and 21^s, 2019^t as Official Candidate Qualifying Dates in the City of Fairburn.

FACTS AND ISSUES: NA.

RECOMMENDED ACTION: Approval of the Resolution.


Elizabeth Carr-Hurst, Mayor

RESOLUTION

WHEREAS, the City of Fairburn is a Georgia Municipal Corporation; and

WHEREAS, the City of Fairburn will hold the General Election for the Offices Of Mayor and three Council Members on Tuesday, November 5, 2019;

WHEREAS, pursuant to O.C.G.A.21-2-132, (d) (3) each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three days and no more than five days and the days must be consecutive.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of Fairburn designates, Monday, August 19, 2019; Tuesday, August 20, 2019 and Wednesday, August 21, 2019 beginning at 8:30 a.m. and commencing at 4:30 p.m. as the dates for qualifying in the City of Fairburn for the 2019 General Election. The office will close from 1 p.m. to 2 p.m. for lunch.

Approved this _____ day of June 2019.

Elizabeth Carr-Hurst, Mayor

Shana T. Moss, Interim City Clerk

W. Randy Turner, City Attorney



CITY OF FAIRBURN
CITY COUNCIL AGENDA ITEM

SUBJECT: MEAG Power

☐ AGREEMENT ☐ POLICY / DISCUSSION ☐ CONTRACT
☐ ORDINANCE ☐ RESOLUTION ☒ OTHER

Submitted: 05-30-2019 Work Session: 06-10-2019 Council Meeting: 06-10-2019

DEPARTMENT: Office of the Mayor

BUDGET IMPACT: None

PUBLIC HEARING? ☐ Yes ☐ No

PURPOSE: To approve Mayor Elizabeth Carr-Hurst as a voting delegate and to approve Mayor Pro-Tem Linda J. Davis as an alternate

HISTORY: MEAG Power conducts their annual election each year and each municipality is required to designate a voting delegate.

FACTS AND ISSUES: NA

ADMINISTRATOR'S COMMENTS:

RECOMMENDED ACTION:


Elizabeth Carr-Hurst, Mayor

TO: Municipal Electric Authority of Georgia (MEAG Power) Participants
(Key Contacts List) and Election Committee Members

FROM: J. Clark Boddie, Palmetto, Election Committee Chairperson

DATE: May 14, 2019

RE: First Notice of 2019 MEAG Power Annual Election

This is a first notice that the 2019 MEAG Power Annual Election will be held in **Amelia Island, Florida on Tuesday, July 9, 2019, at 8:00 a.m.** in the Plaza 2 Ballroom of The Ritz-Carlton Resort on Amelia Island. Please note that the Election is once again being held at the location of the MEAG Power Annual Convention prior to MEAG Power's Annual Board Meeting, which is scheduled for July 10, 2019. MEAG Power's notice to the Participants provides more details regarding the MEAG Power Annual Convention and certain accommodations that are available to the Participants related to the Election.

The Election is for the three expiring, three year term board member positions currently held by Patrick C. Bowie, Steve A. Rentfrow, and Larry Vickery.

Attached is a list of the Election Committee delegates and alternates for each Participant. **If your delegate or alternate is different from the names on the attached list or no delegate or alternate is listed for your community, a certified copy of a resolution naming the delegate and alternate for MEAG Power Elections should be sent to the following address to be received by July 3rd:**

Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
Attn: Peter K. Floyd, Esq.

If it is not possible to meet the July 3rd deadline, your delegate should bring the resolution to the meeting. If a resolution is brought to the meeting by your delegate, please hand it to Pete Degnan, Peter Floyd or me before the meeting is called to order. **Please check the enclosed delegate list and verify your community's voting delegate and alternate.** Should a new resolution be necessary, a sample is enclosed for your convenience.

If you would like to nominate a person to one of the positions to be filled, have a delegate present at the Annual Election meeting prepared to do so. You are still free to contact other members of the Election Committee prior to the Election advising them of persons you plan to nominate. Please note that members of the Election Committee are not eligible to run for election to the MEAG Power board. Accordingly, if you would like to nominate a current member of the Election Committee to run for one of the positions to be filled, please have the resolution mentioned above adopted and returned as indicated appointing a new delegate or alternate, as applicable, in lieu of such current member of the Election Committee.

Also, enclosed is a list showing the distribution of votes for this Election. Please contact Peter Floyd at 404-881-4510 or peter.floyd@alston.com with any questions. Thank you

Jim Fuller and Pete Degnan, MEAG Power; MEAG Power Board
Kay Pippin, Jackson, Vice Chairman.

A RESOLUTION

BE IT RESOLVED by the Mayor and City Council of the City of _____ that
_____ is hereby appointed to serve as this City's voting delegate on
the Municipal Electric Authority of Georgia's Election Committee, with authority to cast all votes to which
this City is entitled. _____ is appointed as alternate voting delegate.

This _____ day of _____, 2019.

CITY OF _____

ATTEST:

Mayor

Clerk

Councilmember

Councilmember

[SEAL]

* Additional council signatures optional.

MEMBERS
MUNICIPAL ELECTRIC AUTHORITY OF GEORGIA
MEMBERSHIP ELECTION COMMITTEE
AS OF JULY 3, 2018

PARTICIPANT	ELECTION COMMITTEE REPRESENTATIVE	ELECTION COMMITTEE ALTERNATE
Acworth	Brett North	Brian Bulthuis
Adel	Rene' Cowart	John H. Flythe
Albany	Sharon D. Subadan	Phil Roberson
Barnesville	David K. Rose	Niki Sappington
Blakely	Melinda Crook	Charles Middleton
Brinson	Ashley M. Miller	James Earp
Buford	Stacy Rolin	Bryan Kerlin
Cairo	Chris Addleton	Rod Prince
Calhoun	James F. Palmer	George Crowley
Camilla	Steve Sykes	W.D. (Danny) Palmer, III
Cartersville	Matthew J. Santini	Don Hassebrock
College Park	Ambrose W. Clay	Hugh Richardson
Commerce	J. Clark Hill	Mark Fitzpatrick
Covington	Leigh Anne Knight	Billy Bouchillon
Crisp County	Russell Slade, Jr.	Jack Hamilton
Doerun	Kevin Branch	Mike Campbell
Douglas	Tony L. Paulk	Robert Moore
East Point	Myron B. Cook	Deana Holiday Ingraham
Elberton	Larry L. Guest	Lanier Dunn
Ellaville	Lynne McChargue	David Theiss
Fairburn	Elizabeth Carr-Hurst	Tom Ridgway
Fitzgerald	Terrance Paulk	Robert Levenson
Forsyth	Eric S. Wilson	Michael E. Dodd
Fort Valley	Jimmie Barnes	Juanita Bryant
Grantville	Doug Jewell	Ruby Hines
Griffin	Doug Hollberg	Dan Thompson
Hogansville	William C. Stankiewicz	David A. Milliron
Jackson	Kay Pippin	Theodore Patterson

PARTICIPANT	ELECTION COMMITTEE REPRESENTATIVE	ELECTION COMMITTEE ALTERNATE
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LaFayette	Phillip A. Arnold	Ben Bradford
LaGrange	Jim Thornton	Meg Kelsey
Lawrenceville	Rick Baldwin	Steve North
Mansfield	Jefferson Riley	Perry Lunsford
Marietta	Michelle Cooper Kelly	Ron Mull
Monroe	John S. Howard	Wayne Adcock
Monticello	Stone Workman	Larry Thurman
Moultrie	Cecil Barber	Elvira Gibson
Newnan	George Alexander	Rhodes Shell
Norcross	Craig Newton	Rudolph Smith
Oxford	Jerry D. Roseberry	Mike Ready
Palmetto	J. Clark Boddie	Laura Mullis
Quitman	Dr. Nancy Whitfield Dennard	Mark DeVane
Sandersville	James W. Andrews	Judy McCorkle
Sylvania	Stacy F. Mathis	Preston Dees
Sylvester	Autron Hayes	Charles Jones
Thomaston	J.D. Stallings	Russell Thompson
Thomasville	Greg Hobbs	Chris White
Washington	Sherri D. Bailey	Mike Scarborough
West Point	Ed Moon	A. Drew Ferguson IV
Whigham	Jim Sellers	George Trulock



Distribution of Votes - For the Election Year 2019 Based on the Power Supply Year 2018

Pursuant to the Official Code of GA. ANN.

Section 46-3-117(B)

Using YES versions

	Power Supply Year 2018			Composition of Electoral Votes			Comparison to Previous Power Supply Year		
	Total Delivered Energy	SEPA	Net Bulk	Fixed Vote	% of Bulk Power Energy	Fractional Vote	Total Vote	2018	2017
1 Adel	126,050,252	12,779,168	113,271,084	1.00	1.132%	0.55468	1.555	1.555	1.564
2 Albany	931,793,699	112,711,180	819,082,519	1.00	8.185%	4.01065	5.010	5.010	5.169
3 Barnesville	98,349,440	4,880,958	93,468,482	1.00	0.934%	0.45766	1.458	1.458	1.452
4 Blakely	78,766,412	10,022,952	68,743,461	1.00	0.687%	0.33663	1.337	1.337	1.353
5 Brinson	1,660,899	289,828	1,371,071	1.00	0.014%	0.00686	1.007	1.007	1.007
6 Buford	220,837,175	4,364,648	216,472,527	1.00	2.163%	1.05987	2.060	2.060	2.022
7 Cairo	140,864,518	11,589,157	129,275,360	1.00	1.292%	0.63308	1.633	1.633	1.647
8 Calhoun	439,053,349	14,203,340	424,850,009	1.00	4.245%	2.08005	3.080	3.080	3.123
9 Camilla	149,510,590	11,241,752	138,268,838	1.00	1.382%	0.67718	1.677	1.677	1.700
10 Cartersville	610,195,062	31,773,256	578,421,806	1.00	5.780%	2.83220	3.832	3.832	3.800
11 College Park	300,078,681	28,842,378	271,236,303	1.00	2.710%	1.32790	2.328	2.328	2.325
12 Commerce	60,131,221	8,247,534	51,883,687	1.00	0.518%	0.25382	1.254	1.254	1.249
13 Covington	454,077,025	17,385,656	436,691,369	1.00	4.364%	2.13836	3.138	3.138	3.108
14 Crisp County	415,166,928	33,468,060	381,718,868	1.00	3.814%	1.86886	2.869	2.869	2.846
15 Doerun	6,917,555	1,165,058	5,752,497	1.00	0.057%	0.02793	1.028	1.028	1.029
16 Douglas	281,985,766	18,855,894	263,129,871	1.00	2.629%	1.28821	2.288	2.288	2.323
17 East Point	401,364,262	62,020,612	339,343,650	1.00	3.391%	1.66159	2.662	2.662	2.665
18 Elberton	142,657,488	21,189,848	121,467,640	1.00	1.214%	0.59486	1.595	1.595	1.600
19 Ellaville	26,790,063	1,735,111	25,054,952	1.00	0.250%	0.12250	1.123	1.123	1.120
20 Fairburn	97,653,754	3,335,866	94,317,888	1.00	0.942%	0.46158	1.462	1.462	1.415
21 Fitzgerald	195,599,689	18,005,613	177,594,076	1.00	1.775%	0.86975	1.870	1.870	1.875
22 Forsyth	92,519,874	6,890,539	85,629,335	1.00	0.856%	0.41944	1.419	1.419	1.402
23 Fort Valley	127,659,076	17,445,157	110,213,919	1.00	1.101%	0.53949	1.539	1.539	1.541
24 Grantville	12,388,904	869,475	11,519,429	1.00	0.115%	0.05635	1.056	1.056	1.054
25 Griffin	439,309,015	33,636,964	405,672,051	1.00	4.054%	1.98646	2.986	2.986	2.961
26 Hogansville	27,984,968	2,834,910	25,150,058	1.00	0.251%	0.12299	1.123	1.123	1.116
27 Jackson	46,062,911	3,829,144	42,233,767	1.00	0.422%	0.20678	1.207	1.207	1.198
28 LaFayette	109,025,618	12,237,905	96,787,713	1.00	0.967%	0.47383	1.474	1.474	1.467
29 LaGrange	552,805,754	31,683,046	521,122,708	1.00	5.207%	2.55143	3.551	3.551	3.523
30 Lawrenceville	341,478,913	8,894,362	332,584,550	1.00	3.323%	1.62827	2.628	2.628	2.625
31 Mansfield	7,845,100	700,571	7,144,529	1.00	0.071%	0.03479	1.035	1.035	1.034
32 Marietta	1,052,515,957	68,909,231	983,606,726	1.00	9.830%	4.81670	5.816	5.816	5.802
33 Monroe	162,772,924	13,376,092	149,396,832	1.00	1.493%	0.73157	1.732	1.732	1.725
34 Monticello	25,925,117	3,399,205	22,525,912	1.00	0.225%	0.11025	1.110	1.110	1.109
35 Moultrie	197,343,062	28,673,473	168,669,589	1.00	1.685%	0.82565	1.826	1.826	1.838
36 Newnan	385,380,147	12,769,571	372,610,576	1.00	3.723%	1.82427	2.824	2.824	2.561
37 Norcross	105,715,526	3,218,784	102,496,742	1.00	1.024%	0.50176	1.502	1.502	1.505
38 Palmetto	33,020,800	1,710,160	31,310,640	1.00	0.313%	0.15337	1.153	1.153	1.148
39 Quitman	54,309,481	8,197,630	46,111,851	1.00	0.461%	0.22589	1.226	1.226	1.230
40 Sandersville	133,271,294	9,253,284	124,018,010	1.00	1.239%	0.60711	1.607	1.607	1.599
41 Savannah	711,644,272	10,076,694	701,567,578	1.00	7.010%	3.43490	4.435	4.435	4.446
42 Sylvester	90,461,540	7,324,317	83,137,223	1.00	0.831%	0.40719	1.407	1.407	1.418
43 Thomaston	135,977,639	14,247,486	121,730,153	1.00	1.216%	0.59584	1.596	1.596	1.594
44 Thomasville	503,820,952	46,412,293	457,408,659	1.00	4.571%	2.23979	3.240	3.240	3.333
45 Washington	88,581,089	9,385,721	79,195,368	1.00	0.791%	0.38759	1.388	1.388	1.435
46 West Point	57,466,037	8,665,957	48,800,080	1.00	0.488%	0.23912	1.239	1.239	1.240
47 Whigham	6,115,365	591,168	5,524,196	1.00	0.055%	0.02695	1.027	1.027	1.028
48 Oxford	19,101,357	850,281	18,251,076	1.00	0.182%	0.08918	1.089	1.089	1.088
49 Acworth	106,103,466	4,266,761	101,836,705	1.00	1.018%	0.49882	1.499	1.499	1.488
	10,806,129,985	798,458,051	10,007,671,934	49.00	100.000%	49.00	98.000	98.000	98.000



**CITY OF FAIRBURN
MAYOR AND CITY COUNCIL
AGENDA ITEM**

SUBJECT: Moratorium for Drive-through Fast Food Restaurants within the Highway 74 Overlay District

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
(X) ORDINANCE () RESOLUTION () OTHER

Submitted: 06.10.19 Work Session: 06.10.19 Council Meeting: 06.10.19

DEPARTMENT: Community Development/Planning and Zoning Office

BUDGET IMPACT: No

PUBLIC HEARING: () Yes (X) No

PURPOSE: For Mayor and Council to consider a 6-month moratorium on the acceptance of rezoning applications, site plans, development plans, permit applications, business license applications and any and all other approvals for drive-through fast food restaurants within the Highway 74 Overlay District.

FACTS AND ISSUES: The Highway 74 Overlay District corridor is the southern gateway to the city and is expected to continue experiencing rapid commercial and residential growth. The regulations set forth in the Highway 74 Overlay District are intended to insure attractive development that will compliment the area and promote a mixture of desirable uses rather than unwanted commercial sprawl. The ultimate goal is to regulate the use of property for the purposes of attracting and maintaining development that will have a positive effect on the health, safety and welfare of Fairburn citizens. The vision of the Highway 74 Overlay District includes design guidelines for appropriate building materials and architectural character, landscaping buffers, parking requirements, underground utilities, open space reservation, and secondary road networks.

There have been concerns expressed by citizens regarding the growing number of drive-through fast food restaurants constructed on Highway 74/Senoia Road. Currently, on Highway 74/Senoia Road there are approximately nine drive-through fast food restaurants within 0.6 miles [from the I-85 to the intersection of Meadow Glen Pkwy]. Staff is requesting a 6-month moratorium on the acceptance of rezoning applications, site plans, development plans, permit applications, business license applications and any and all other approvals for drive-thru fast food restaurants within the Highway 74 Overlay District. The moratorium will allow staff the opportunity to evaluate the concerns and propose regulations [text amendments] to address the proliferation of drive-through fast food restaurants within the Highway 74 Overlay District. Since the city is presently engaged in a review and rewrite of the zoning ordinance, this issue will be addressed through the zoning ordinance rewrite process.

RECOMMENDED ACTION: For the Mayor and Council to approve a 6-month moratorium on the acceptance of rezoning applications, site plans, development plans, permit applications, business license applications and any and all other approvals for drive-thru fast food restaurants within the Highway 74 Overlay District.


Elizabeth Carr-Hurst, Mayor

**STATE OF GEORGIA
CITY OF FAIRBURN**

AN ORDINANCE TO IMPOSE A SIX-MONTH MORATORIUM ON THE ACCEPTANCE OF REZONING APPLICATIONS, SITE PLANS, DEVELOPMENT PLANS, PERMIT APPLICATIONS, BUSINESS LICENSE APPLICATIONS AND ANY AND ALL OTHER APPROVALS FOR DRIVE-THROUGH FAST FOOD RESTAURANTS LOCATED WITHIN THE GEORGIA HIGHWAY 74 OVERLAY DISTRICT WITHIN THE CITY LIMITS OF THE CITY OF FAIRBURN; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and City Council of Fairburn have been vested with substantial powers, rights and functions to generally regulate the practice, conduct or use of property for the purposes of maintaining health, morals, safety, peace and the general welfare of the City of Fairburn; and

WHEREAS, Georgia law recognizes that local governments may impose moratoria on zoning decisions, building permits and other development approvals where exigent circumstances warrant the same, pursuant to the case law found at City of Roswell v. Outdoor Systems, Inc., 274 Ga. 130 (2001); Taylor v. Shetzen, 212 Ga. 101 (1955); and

WHEREAS, the Georgia Supreme Court, in the case of DeKalb County v. Townsend, 243 Ga. 80 (1979), held that, "To justify a moratorium, it must appear first, that the interests of the public generally, as distinguished from those of a particular class, require such interference; and second, that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals." The Mayor and City Council have found that the interests of the public necessitate the enactment of a moratorium for health, safety, morals and general welfare purposes by means which are reasonable and not unduly oppressive; and

WHEREAS, the Courts take judicial notice of a local government's inherent ability to

impose moratoria on an emergency basis; and

WHEREAS, the Mayor and City Council of the City of Fairburn have, as a part of planning, zoning and growth management, hired a consultant to assist in the review and update of the City of Fairburn Zoning Ordinance and City of Fairburn Zoning Map and therefore seeks to maintain the status quo until that process has a chance to be completed; and

WHEREAS, Section 80-90 Georgia Highway 74 Overlay District (b)(2) Findings and Intent states: “[T]he regulations set forth in this section are intended to insure attractive developments which are complimentary and will promote a mix of uses rather than the undesirable commercial sprawl which has plagued many communities and threatened the very character that attracted such development interests. These standards will reinforce and implement a land use plan that features residential, office, personal services, hospitality uses and retail commercial uses along Georgia Highway 74.”; and

WHEREAS, currently there exists a commercial sprawl of drive-through fast food restaurants located within the Georgia Highway 74 Overlay District; and

WHEREAS, the Mayor and City Council wish to impose this moratorium to allow time for the consultant to make recommendations to the Mayor and City Council once the review of the City of Fairburn Zoning Ordinance and City of Fairburn Zoning Map is complete and for Mayor and City Council to consider and adopt text amendments to the City of Fairburn Zoning Ordinance that will provide for the implementation of an orderly approach to the City’s land use plan for development within the Georgia Highway 74 Overlay District which will address the prevention of further proliferation of drive-through fast food restaurants; and

WHEREAS, the Mayor and City Council are, and have been interested in, developing a cohesive and coherent policy regarding the development of drive-through fast food restaurants

within the Georgia Highway 74 Overlay District, and have intended to promote community development through stability, predictability and balanced growth, which will further the prosperity of the City as a whole; and

WHEREAS, the Mayor and City Council therefore consider this moratorium a proper exercise of their police powers.

NOW THEREFORE BE IT ORDAINED, by authority of same that:

Section I. FINDINGS OF FACT

The Mayor and City Council of the City of Fairburn make the following findings of fact;

1. It appears that the City of Fairburn Zoning Ordinance and City of Fairburn Zoning Map require an additional review by the City of Fairburn; and

2. Substantial disorder, detriment and irreparable harm would result to the citizens, businesses and the City of Fairburn if the current land use regulation scheme related to the further development of drive-through fast food restaurants within the Georgia Highway 74 Overlay District were to be utilized by property owners prior to a more thorough review; and

3. The City's ongoing revision of its Zoning Ordinance and Zoning Map requires that a cessation of all rezoning applications, site plans, development plans, building permits, business license applications and any and all other approvals for drive-through fast food restaurants within the Georgia Highway 74 Overlay District; and

4. It is necessary and in the public interest to delay, for a reasonable period of time, the processing of any rezoning applications, site plans, development plans, building permits, business license applications and any and all other approvals for drive-through fast food restaurants within the Georgia Highway 74 Overlay District to ensure that the design, development and location of the same are consistent with the long-term planning objectives of the City; and

5. That the Georgia Supreme Court has ruled that limited moratoria are reasonable and do not constitute a final legislative action pursuant to the Georgia Zoning Procedures Law when such moratoria are applied throughout the City under City of Roswell et al v. Outdoor Systems, Inc., 274 Ga. 130 (2001).

Section II. IMPOSITION OF MORATORIUM

1. There is hereby imposed a moratorium on the acceptance by the staff of the City of Fairburn of rezoning applications, site plans, development plans, permits and any and all other approvals, and on their acceptance of all applications for use of land within the Georgia Highway 74 Overlay District within the City of Fairburn for any drive-through fast food restaurants.

2. The duration of this moratorium shall be until December 10, 2019.

3. This moratorium shall be effective as of the date of its adoption.

4. This moratorium shall have no effect upon rezoning approvals or permits previously issued or as to site plans, development plans or business license applications previously approved by the City.

5. The provisions of this Ordinance shall not affect the issuance of permits or site plan reviews that have received final approval by the City on or before the effective date of this Ordinance.

6. As of the effective date of this Ordinance, no applications for rezoning, site plans, development plans, permits and any and all other approvals for drive-through fast food restaurants within the Georgia Highway 74 Overlay District shall be accepted by any agent, employee or officer of the City, and any so accepted for filing will be deemed in error, null and void and of no effect whatsoever and shall constitute no assurance whatsoever of any right to engage in any act, and any action in reliance on any such application submittal shall be unreasonable.

Section III. DURATION OF MORATORIUM

The duration of this moratorium shall be until the Mayor and City Council adopt an ordinance regulating the placement of drive-through fast food restaurants within the Georgia Highway 74 Overlay District within the City of Fairburn or until December 10, 2019, whichever occurs first.

Section IV. EFFECTIVE DATE

The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

BE IT ORDAINED by the Mayor and City Council of Fairburn, this 10th day of June, 2019.

CITY OF FAIRBURN, GEORGIA

Elizabeth Carr-Hurst, Mayor

APPROVED AS TO FORM:

ATTEST:

William R. Turner, City Attorney

Shana T. Moss, Interim City Clerk