



## PLANNING AND ZONING COMMISSION MEETING MINUTES

City Hall  
56 Malone Street  
Fairburn, GA 30213  
Tuesday, June 1, 2021  
7:00 p.m.

Due to the COVID-19 pandemic, the meeting was held virtually via Zoom video conferencing.

Elise Stoney, Chair  
Elizabeth Echols, Vice-Chair  
Tony Smith  
Anthony Stewart

Jerry Williams  
Leonte Benton  
Jason Jones

Director of Planning and Zoning:  
City Attorney:

Tarika Peeks  
Valerie Ross

- I. **MEETING CALLED TO ORDER:** By Chair Stoney
- II. **ROLL CALL:** Commissioners Jerry Williams and Leonte Benton were absent.
- III. **PUBLIC COMMENTS:**

**Spoke in opposition to Conceptual Site Plans 2021037 DuMonde Plaza and 2021038 St. Charles Square**

1. Kyle Williams, Land Use and Zoning Attorney for Durham Lakes Homeowners Association – 309 Sycamore, Decatur, GA 30030
2. Michelle James, President of the Durham Lakes Homeowners Association and Durham Lakes Homeowner
3. Rufus Wells, Former President of the Durham Lakes Homeowners Association and Durham Lakes Homeowners
4. Greg Saunders, Durham Lakes Homeowners
5. Georgia State Representative Mandisha Thomas
6. Robby Chapman
7. Kevin Delaigle

**Issues and concerns expressed by the speakers are:**

1. The HOA architectural review committee has not reviewed the plans.
2. Heavy and dangerous traffic flow into the residential community
3. Environmental impacts [e.g., gasoline vapors, in-ground storage tank leaks]
4. Decreased home values.
5. The proposed development will open a gateway for alcohol and drug to children.
6. The scale of the development is not compatible.

7. Curb cuts are not appropriate, ingress and egress into the development interrupt traffic flow and cause traffic hazards.
8. Possible health impacts from the underground gasoline storage tanks
9. Impacts of commercial lightning and trash on the community.
10. Too many gas stations in the area; the proposed uses are not compatible with the residential area.

IV. **APPROVAL OF AGENDA:** Vice-Chair Echols made a motion to **APPROVE** the June 1, 2021, agenda. Commissioner Smith seconded. **THE MOTION CARRIED.**

I. **APPROVAL OF PREVIOUS MEETING MINUTES:** Commissioner Echols made a motion to **APPROVE** the May 4, 2021, minutes. Commissioner Stewart seconded. **THE MOTION CARRIED.**

V. **PUBLIC HEARING:** None

VI. **OLD BUSINESS:** None

VII. **NEW BUSINESS:**

**CONCEPTUAL SITE PLAN 2021037 DUMONDE PLAZA** - A request to construct a 2,590 square foot commercial building for a proposed restaurant at 100 Durham Lakes Parkway.

**SUMMARY/STAFF PRESENTATION:**

Ms. Peeks stated that River Brooks LLC is requesting a 2,590 square foot commercial building for a proposed restaurant with an associated driveway, parking, utilities, and landscaping. The applicant will be required to meet all off-street parking and buffer regulations. The site will have one access location with a limited access right-in right-out (RIRO) driveway planned on Durham Lakes Parkway. Stormwater detention is proposed by an onsite underground detention system.

The subject property is located at the northwest corner of Durham Lakes Parkway and Virlyn B. Smith Road. The site is approximately 1.06 acres and zoned PD (Planned Development). On August 11, 2003, the Mayor and City Council approved the PD-02 (Planned Development) rezoning for the Durham Lakes Golf and Country Club tract, which allowed for a mixture of uses including, single-family, retail, office commercial, and an 18-hole golf course. There were five (5) development areas under the PD-02 (Planned Development) zoning which are Development Areas 1-3 for single-family residential use, Development Area 4 for an 18-hole golf course, and Development Area 5 for commercial uses. The commercial tracts within Area 5 had no conditions of zoning imposed by the City Council. Accordingly, any permitted use under the C-2 (Highway Commercial) zoning district may be developed on the subject lot(s). The staff has reviewed the conceptual site plan and has determined that the plan met the requirements for a conceptual review and recommends approval conditional. The staff has recommended twelve (12) conditions as stated in the staff report.

Chair Stoney asked Ms. Peeks to state the conditions. Ms. Peeks stated the conditions as listed in the staff report.

Commissioner Echols asked how many seats will be in the restaurant? Ms. Peeks stated that a tenant has not been determined and the question is more appropriate for the applicant. Commissioner Stewart asked if the 50-ft buffer is the maximum buffer. Ms. Peeks stated that 50-ft is the maximum that the ordinance provides. Commissioner Stewart asked what is an opaque fence. Ms. Peeks stated that the fence ordinance allows opaque fence and metal, but it must be vinyl coated with neutral colors.

The applicant, Ms. Kavita Purohit stated that a tenant has not been determined. Commissioner Stewart asked Ms. Kavita, why have they not tried to meet with the residents. Ms. Kavita stated that she had a call with the HOA and asked for other options but there was no mutual agreement. Commissioner stated asked, why would you want development in an area that the community is not supporting.

Jeremy Berry, Attorney representing River Brokers [312 Maple Drive, Atlanta, 30305] stated, the applicant is requesting to develop a gas station and restaurant on the C-2 designated parcels. He stated that the two uses are permitted by a matter of right and therefore building permits should be issued for both properties. Attorney Berry stated that staff has recommended approval conditional and the applicant has agreed to meet staff conditions as stated in the staff report. He stated that the Planning and Zoning Commission can either approve or deny the conceptual site plan based on the failure to meet some criteria. Furthermore, Attorney Berry stated the Planning and Zoning Commission is limited and the code [Section 62.143] does not provide any standards and that they objected, and the Commission's review must be limited to either approval or denial. The staff has already recommended approval and they understand and believe that the proposed use is allowed by right in the district. He also stated that the applicant should be able to proceed unless anyone has any issues with the applicant's compliance with the development standards, and if not, there is no basis to deny or delay the consideration of the conceptual site plan. He also stated that the use has already been decided by the city in 2003 and the only issue is whether they meet the development standards and staff have stated that they do meet the standards. This is not a rezoning and does not require a review by the Durham Lakes architectural review committee.

Commissioner Echols asked if the seating capacity for the restaurant has been determined. Attorney Berry stated that a restaurant has not committed. Commissioner Stewart asked why the developer is not working with residents of the community. Ms. Kavita stated that they tried working with the community and the zoning allows for the uses.

Ms. Peeks stated a correction to the staff analysis. There are only eight conditions; not nine; one of the conditions is a duplicate [condition #3 and #5 are duplicates].

**MOTION AND VOTE:** Commissioner Echols made the motion to **DENY** conceptual site plan 2021037 DuMonde Plaza. Commissioner Stewart seconded. **THE MOTION CARRIED.**

Attorney Ross stated for points of order. The conceptual site plan will go back to staff for further review. Denial is not what the Commission is allowed to do under the ordinance. The Commission can not approve but it will go back to staff for further review.

**CONCEPTUAL SITE PLAN 2021038 ST. CHARLES SQUARE** A request to construct a 5,800 square foot commercial building for a proposed gasoline service station and restaurant at 101 Durham Lakes Parkway.

**SUMMARY/STAFF PRESENTATION:**

The applicant is proposing to construct a 5,800 square foot commercial building for a proposed gasoline service station with two gasoline islands (a total of four (4) pumps) and a restaurant with an associated driveway, parking, utilities, and landscaping. The applicant will be required to meet all off-street parking and buffer regulations. The site will have one access location with a limited access right-in right-out (RIRO) driveway planned on Durham Lakes Parkway. Stormwater detention is proposed by an onsite underground detention system.

The subject property is located at the northwest corner of Durham Lakes Parkway and Virlyn B. Smith Road. The site is approximately 1.94 acres and zoned PD (Planned Development). On August 11, 2003, the Mayor and City Council approved the PD-02 (Planned Development) rezoning for the Durham Lakes Golf and Country Club tract, which allowed for a mixture of uses

including, single-family, retail, office commercial, and an 18-hole golf course. There were five (5) development areas under the PD-02 (Planned Development) zoning which are Development Areas 1-3 for single-family residential use, Development Area 4 for an 18-hole golf course, and Development Area 5 for commercial uses. The commercial tracts within Area 5 had no conditions of zoning imposed by the City Council. Accordingly, any permitted use under the C-2 (Highway Commercial) zoning district may be developed on the subject lot(s). The staff has reviewed the conceptual site plan and has determined that the plan met the requirements for a conceptual review and is recommending approval conditional. The staff has recommended twelve (12) conditions as stated in the staff report.

Chair Stoney asked Ms. Peeks to state the conditions. Ms. Peeks stated the conditions.

Commission Echols asked when was Durham Lakes established? Ms. Peeks stated that the rezoning case was approved in August 2003.

Jeremy Berry, Attorney representing River Brokers [312 Maple Drive, Atlanta, 30305] stated that the uses are permitted by a matter of right, therefore the city should issue the permits. Mr. Berry stated that the proper role of the Commission is to confirm that the plans meet the city's building standard. He also stated that the staff has recommended conditional approval and they have agreed to the conditions.

The applicant, Kavita Purohit, stated that they tried to meet with the HOA via Zoom and agreed to not develop a liquor store. They tried to work with the HOA and they (HOA) did not want to meet them halfway.

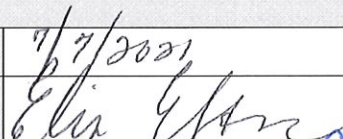
**MOTION AND VOTE:** Commissioner Echols made the motion to **NOT APPROVE** Conceptual Site Plan 2021038. Commissioner Stewart seconded. **THE MOTION CARRIED.**

**VIII. STAFF REPORT:** Ms. Peeks stated that there was no staff report.

**IX. COMMISSIONER COMMENTS:** Chair Stoney stated that the Renaissance Festival opened on May 1<sup>st</sup> and is open for six (6) weeks.

**X. ADJOURNMENT:** Vice-Chair Smith made a motion to **ADJOURN**. Commissioner Jones seconded. **THE MOTION CARRIED.**

**MEETING ADJOURNED: 7:55 p.m.**

<b>Approval Signatures</b>	
<b>Date Approved</b>	6/7/2021
<b>Elise Stoney, Chairman</b>	
<b>Tarika Peeks, Recording Secretary</b>	