

PLANNING AND ZONING COMMISSION MEETING MINUTES

**City Hall
56 Malone Street
Fairburn, GA. 30213
Tuesday, May 1, 2018
7:00 P.M.**

Elise Stoney, Chairman
Tony Smith Vice-Chairman
Elizabeth Echols

Jerry Williams
Shelby Phillips (*Absent*)
Mark Wade

City Planner:
City Attorney:
Recording Secretary:

Tarika Peek
Valerie Ross
Kimberly Mitchell

- I. MEETING CALLED TO ORDER:** By Chairman Stoney
- II. ROLL CALL:** All members of Planning and Zoning Commission were present except Commissioner Phillips, which constitute a quorum.
- III. PLEDGE OF ALLEGIANCE:** Recited in unison.
- IV. PUBLIC COMMENTS:** None
- V. ADOPTION OF AGENDA:** Commissioner Williams moved to **APPROVE** the agenda. Commissioner Wade seconded. **The motion carried unanimously.**
- VI.**
- VII. APPROVAL OF PREVIOUS MEETING MINUTES**
Motion and Vote: Commissioner Williams moved to **APPROVE** April 10, 2018 meeting minutes. Commissioner Echols seconded. **The motion carried unanimously.**
- VIII. PUBLIC HEARING:**

Primary Variance -18V-006 Marksmen Construction: To allow a 5-foot encroachment into the 40-foot yard setback.

SUMMARY/STAFF PRESENTATION: For the Planning and Zoning Commission to review and make a recommendation on a request for relief relative to the variance conditions in Section 80-251 of the City of Fairburn Zoning Ordinance.

Staff recommends **DENIAL** of the variance request to allow a 5-foot encroachment into the 40-foot front yard setback.

(Invitation for public comment in support of and in opposition to the petition)

Spoke in Favor: David Barber, Fayetteville, Ga., (representing Marksmen Construction) stated a variance is needed due to the building being constructed using an erroneous survey.

Commissioner Williams asked if the surveyor was hired by the applicant. Mr. Barber stated yes, the surveyor was hired by the applicant.

Spoke in Favor: Randy McLain, Newnan, Ga., further explained they're surveying process that was performed.

Commissioner Williams stated based on what he has read pertaining to variance requested, it is an error on the applicant's part and the City is not being held responsible at any point. Mr. McLain stated no the error was not on the City.

Spoke in Favor: Tim McLain, Newnan, Ga., confirmed it was an accident from the information being obtained from the field then being transported back into the office. Once the error was noticed they contacted Marksmen and came to the City of Fairburn to let them know what happened and to find out what they needed to do at that point.

Commissioner Williams wanted to know what would they have to do to meet the requirements pertaining to the building, would it have to be torn down? Mr. Tim McLain stated yes, it would have to be torn down.

Vice-Chair Smith confirmed that the error was no fault of the City but fault of the surveyor. Mr. Tim McLain stated yes, the error was on the surveyor and not Marksmen.

The error was found when they did an easement for the City of Atlanta water department pertaining to a fire line going into the building, at that point is when they realized there was a problem on the corner of the building. It could have been a while before the error was noticed.

Spoke Against: None

Ms. Peeks stated administratively a 10 percent reduction could have been given which would have placed the building at 39 feet and then the applicant would only be encroaching 1.8 feet into the setback. Ms. Peeks further stated staff could only provide a 10% administrative variance; so this is why the applicant is asking for a variance from the Commissioners.

Commissioner Williams asked, if the board would allow the 1.8 feet, what kind of impact would it have on the surrounding buildings. Ms. Peeks stated she does not know if there would be an impact at all. Ms. Peeks stated the area is mostly industrial, it is not a residential area and it is a very small encroachment into the setback. Commissioner Williams wanted to know if there are any future zonings proposed for the area. Ms. Peeks stated no, the business has been there a very long time. Mr. Randy McLain stated the business was annexed into the city in of Fairburn approximately 10 or 12 years ago. Ms. Peeks stated staff does not intend for the use to change. Ms. Peeks further said the area is basically an M-2 area in the parts that are in City of Fairburn and the parts in the City of South Fulton.

Commissioner Wade reiterated if it stayed the way that it was, there would be no detrimental impact to the sidewalks, roadway etc. Ms. Peeks confirmed there would be no detriment to the sidewalks, infrastructure to the public health or safety of citizens.

Commissioner Williams stated it appears the only damage would be if we had to destroy the building. Ms. Peeks stated yes because the applicant would have to completely tear the building down and rebuild it at the 35 or 40 feet setback.

Commissioner Wade stated the applicant would have to move the plumbing back on the foundation. Ms. Peeks confirmed yes everything would have to be torn down. Ms. Mitchell has

drawn red lines on the diagram of the site showing the 35 and the 45 setback and where the building would sit if moved.

Commissioner Echols stated it is a matter of destroying the whole building and the materials and then start from scratch. Commissioner Wade concluded with as to oppose to the building being less than 2 feet encroaching in the setback.

(Close of hearing. Planning and Zoning Commission questions and discussion)

Motion and Vote: Commissioner Williams moved to **APPROVE** Variance 18V-006. Vice-Chair Smith seconded. **The motion carried unanimously.**

IX. NEW BUSINESS:

Rezoning- 18RZ-001- SCP Acquisitions

SUMMARY/STAFF PRESENTATION: For the Planning and Zoning Commission to review and make a recommendation on a request to rezone property from C-2 (General Commercial District) and RM-8 (Multi-family Residential District) to RM-36 (Multi-family Residential District) to allow the development of 280 multi-family units, with concurrent variances.

1. Variance from section 80-91(e)(8)(a) to reduce the minimum heated floor area for one-bedroom units from 700 square feet to 625 square feet. (18CV-004)
2. Variance from section 80-337(b)(1) to reduce the required parking from 2 spaces per unit to 1.50 spaces per unit. (18CV-005)

Staff recommends **APPROVAL CONDITIONAL** of the rezoning petition and associated concurrent variances.

Recommendation Conditions:

Should the Mayor and City Council decide to approve the rezoning, the staff recommends the approval be subject to 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 restrict the use of the subject property as follows:
 - a. Residential units at density no greater than 16 units per acre or 280 units, whichever is less.
2. To provide the following site development standards:
 - a. Minimum nine (9) foot ceilings. Excluding fur downs for HVAC and plumbing.
 - b. Full amenity package including recreation area, courtyards, swimming pool, fitness center and club room.
 - c. The number of three (3) bedroom units shall be limited to no more than ten percent (10%) of the total number of units.

- d. Exterior materials shall be a minimum of thirty percent (30%) brick or stone and forty percent (40%) stone or other cementitious material. Vinyl siding and veneers shall be prohibited.
- e. All roof mounted equipment shall be screened from the public right-of-way.
- f. Property shall have an entry gate at all access points and a fence surrounding the residential portion of the property. Wood fencing material shall be prohibited. Stream buffers shall be excluded from this requirement.
- g. Garages shall be provided for ten (10) percent of total number of units.
- h. A minimum of two (2) alternative fuel vehicle charging stations.

(Invitation for public comment in support of and in opposition to the petition)

Spoke in Favor: Will C. (Speaking on behalf SCP Acquisitions) discussed each variance and why the variances are needed. Commissioner Williams questioned as to why 1.50 spaces per unit. Mr. C talked about transportation changes which include Lyft and a lot of ride share programs, parking needs have decreased.

Commissioner Wade asked how many spaces does 1.50 equate to. Ms. Peeks stated 280 units with 560 spaces which would have been required and the applicant is proposing to drop the spaces down to 420 spaces, a difference of 140 spaces in 2 spaces versus 1.50 spaces. Commissioner Wade stated it is basically 1 space per unit. Mr. Will C. replied yes.

Spoke Against: None

(Close of hearing. Planning and Zoning Commission questions and discussion)

Motion and Vote: Commissioner Williams moved to **APPROVAL CONDITIONAL** 18RZ-001, 18CV-004 and 18CV-005. Vice-Chairman Smith seconded. **The motion carried unanimously.**

X. Rezoning- 18RZ002- Battery Source:

SUMMARY/STAFF PRESENTATION: For the Planning and Zoning Commission to review and make a recommendation on a request to rezone 1.034 acres from PD (Planned Development) to PD (Planned Development) to remove the zoning condition that prohibits Major Group 55 and Major Group 75 uses in the area designated as commercial in Ordinance No. 98-07.

Staff recommends **DENIAL** of the rezoning petition.

Recommendation Conditions:

Should the Mayor and City Council decide to rezone the subject property from PD (Planned Development District) to PD (Planned Development District) to remove the condition that prohibits Major Group 55 and Major Group 75 uses in the area designated as commercial, staff recommends the approval be subject to 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 restrict the use of the subject property as follows:
 - a. Retail store and accessory uses

- b. Permitted uses under C-2 (General Commercial District), excluding recycling centers, heavy equipment leasing and renting, and all C-2 conditional uses.
2. To provide the following site development standards:
- a. The development shall meet the requirements of Chapter 80. Article II. Section 80-90 Highway 74 Overlay Districts standards unless a variance is granted through the normal variance procedures.
 - b. Outdoor storage of materials and equipment shall be completely screened from public view and adjacent properties by an opaque screening device approved by the Community Development Department Director.
 - c. Inter-parcel access shall be provided between adjacent properties.
 - d. Only the outdoor display of golf carts is allowed. The outside display of golf carts shall occur only during business hours and shall be removed at the close of each business day.
 - e. No more than ten (10) golf carts shall be displayed outside each business day.

(Invitation for public comment in support of and in opposition to the petition)

Spoke in Favor: Ross Glass, Thomasville, Ga. (Representing Battery Source), a family owned business) to remove part of the condition in major group 55 which do not allow the sale of golf carts along with batteries. Mr. Glass stated they do sale golf carts which is a part of their overall business. Mr. Glass stated he just want to be able to conduct his business.

Commissioner Echols asked if it was a matter of the vehicles pulling up to the bay to have batteries changed. Mr. Glass stated not for the rezoning purposes, there are some variances that they will be asking for later. Mr. Glass stated this is a rezoning of properties to be able to sale golf carts. Mr. Glass said they will be asking for a variance to be able to sale/install automotive batteries as a part of this location.

Commissioner Williams asked Mr. Glass if he was aware the sale of automobiles/automobile parts are prohibited. Mr. Glass stated no he did not know when they contracted the property. They just found out a short while ago. Mr. Glass stated Ms. Peeks wasn't aware either and several things had already been paid for like surveying and travel therefore they decided to ask for a rezoning.

Spoke Against: None

(Close of hearing. Planning and Zoning Commission questions and discussion)

Commissioner Williams asked if there is anything else pending about rezoning this property. Ms. Peeks gave some history. In 1998 said property was annexed and rezoned from Fulton County to PD. PD allows 3 (three) uses, whether it is Commercial, Industrial, Single family or Multi-Family. When the property was rezoned the front part of the subject property was designated for Commercial but there was a condition keeping major group 55 and 75 to be located on the front facing Highway 74. Major group 55 and 75 contain use that are related to the sale of new and used automobiles, the sale of new and used accessories and anything related to major or general repairs of an automobile. When that was discovered Ms. Peeks called and told the applicant a condition was on that property and that why we are here tonight so that the condition can be removed from subject property only for the portion that the applicant is proposing to build the

store. The applicant will sell retail batteries anywhere from the wrist watch to an excavator, to a golf cart, to your automobile. Vice-Chair Smith asked if this rezoning was denied by staff due to what was in the ordinance. Ms. Peeks stated yes because the use is not allowed. Ms. Peeks stated the zoning will not change on the property just the change of said condition on the property which will allow the applicant to use that property for the business that the applicant is proposing.

Vice-Chair Smith asked if there are any other Battery Sources in the city. Ms. Peeks stated not that she is aware of.

Commissioner Williams asked what authority the Commissioners have to change the condition. Ms. Peeks stated you make a recommendation tonight and then it goes to Mayor and Council on the May 14, 2018 and they have the final authority.

Commissioner Wade asked if the golf cart was being considered as an automobile. Ms. Peeks stated yes, a golf cart is considered an automobile.

Commissioner Williams asked if a battery would be considered an automobile part. Ms. Peeks replied yes, and the business will service cars.

Commissioner Wade it is not like a repair shop. Ms. Peeks stated the applicant will only be changing batteries for automobiles. Ms. Peeks stated they will have accessories for golf carts like light bulbs, headlights, windshields. Mr. Glass stated the customers will be in and out within 10 minutes. Mr. Glass stated there is another location nearby that is not in Fairburn., it is in Coweta County on Highway 34, right in front of Sam's. They are planning on building the same style store in Fairburn.

Commissioner Wade asked if there is a showroom where they will store the golf carts, or will they be outside. Mr. Glass stated they have a fenced in area where the golf carts are stored at night, beside the building.

Commissioner Williams stated not more than 10 will be displayed at a time. Mr. Glass responded yes, that is correct.

Vice-Chair asked if there was a designated housing area for the batteries/acid. Mr. Glass stated the batteries they are changing out are coming straight from the vehicles therefore they are not busted and mangled. Mr. Glass stated they are placed on an approved pallet and picked every week from Mr. Glass' own delivery company truck.

Motion and Vote: Vice-Chair Smith moved to APPROVE 18RZ-002. Commissioner Williams seconded on a condition that it goes before Council. Commissioner Echols opposed. **The motion carried.**

XI. Text Amendment-18TA-001-Highway 74 Overlay District Site Development Standards Gasoline Service Stations

SUMMARY/STAFF PRESENTATION: For the Planning and Zoning Commission to make a recommendation to the City Council on proposed text amendment-Highway 74 Overlay District Site Development Standards for gasoline service stations.

Staff recommends APPROVAL of the text amendment to Section 80-90(e)(10)-Highway 74 Overlay District Site Development standards -Gasoline Service Stations.

Commissioner Williams asked if something pertaining to this text amendment was heard not too long ago. Ms. Peeks stated in 2016 some language was added to allow current gas station, if they wanted to rebuild or renovate, the owner would not be penalized because they are located within 1,000 feet of another gas station.

(Invitation for public comment in support of and in opposition to the petition)

Spoke in Favor: None

Spoke Against: None

(Close of hearing. Planning and Zoning Commission questions and discussion)

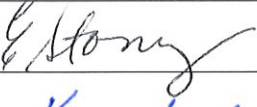
Motion and Vote: Commissioner Williams moved to APPROVE 18TA-001. Commissioner Wade seconded. **The motion carried unanimously.**

IV. STAFF REPORT: None

V. COMMISSION MEMBERS COMMENTS: Commissioner Wade apologized for missing last month's meeting and the special called meeting.

VI. ADJOURN: Motion and Vote: Commissioner Williams made a motion to adjourn. Commissioner Wade seconded. **The motion carried.**

Meeting adjourned at 7:35 p.m.

Approval Signatures	
Date Approved	6/5/2018
Elise Stoney, Chairman	
Kimberly Mitchell, Recording Secretary	