



## PLANNING AND ZONING COMMISSION MEETING MINUTES

City Hall  
56 Malone Street  
Fairburn, GA. 30213  
Tuesday, October 4, 2016  
7:00 P.M.

Elise Stoney, Chair  
Elizabeth Echols, Vice-Chair  
Mark Wade  
Shelby Phillips

Jerry Williams  
Tony Smith  
Homer Knight

City Planner:  
City Engineer:  
City Attorney:  
Recording Secretary:

Tarika Peek  
Brendetta Walker  
Valerie Ross  
Rachelle Eyma

**I. MEETING CALLED TO ORDER:** By Chairman Elise Stoney

**II. ROLL CALL:** All members of Planning and Zoning Commission were present which constituted a quorum.

**III. PLEDGE OF ALLEGIANCE:** Recited in unison.

**IV. PUBLIC COMMENTS:** None

**V. ADOPTION OF AGENDA:**

**Motion and Vote:** Commissioner Williams moved to APPROVE the agenda. Commissioner Wade seconded. **The motion carried.**

**VI. APPROVAL OF PREVIOUS MEETING MINUTES**

**Motion and Vote:** Commissioner Williams moved to APPROVE the minutes from September 13, 2016. Commissioner Smith seconded. **The motion carried.**

**VII. PUBLIC HEARING:**

**PRIMARY VARIANCE 16V-004 Red Rock Development**

**SUMMARY/STAFF PRESENTATION:** The applicant is requesting a primary variance as follows:

To allow two (2) monument signs to be located on the same street frontage – Section 80-43 (b)  
(1) (a)

The applicant requested to defer the variance petition at the July 12<sup>th</sup>, August 2<sup>nd</sup>, September 13<sup>th</sup> Planning and Zoning Commission meeting to allow additional time to meet with staff and resubmit supporting documentation. The applicant has not resubmitted the documentation for the variance petition, therefore staff recommends DEFERRAL of the variance petition to allow two monument signs to be located on the same street frontage (Bohannon Road) to the November 1,

2016 Planning and Zoning Commission meeting. The applicant consequently requested to have variance petition withdrawn, therefore staff recommends **WITHDRAWAL**.

Spoke In Favor: None

Spoke Against: None

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

**Motion and Vote:** Commissioner Williams moved to **WITHDRAW** the variance for Red Rock Development. Commissioner Smith seconded. **The motion carried.**

## VIII. NEW BUSINESS:

### PRIMARY VARIANCE 16V-005 RaceTrac Petroleum

**SUMMARY/STAFF PRESENTATION:** The applicant is requesting a 5-part primary variance as follows:

Part 1: To reduce the landscape buffer from 35 feet to 30 feet (along the portion of the frontage where the property line is jagged) - Section 80-90(e)(1)(a)

Part 2: To reduce the rear yard setback from 30 feet to 15 feet - Section 80-90(e)(2)(c)

Part 3: To increase the number of wall/building signs from 2 to 3 (2 on the front façade, 1 on right side wall) - Section 80-431(b)(2)(a)(d)

Part 4: To increase the square footage of a monument sign from 64 square feet to 76.13 square feet - Section 80-431(b)(1)(b) Part 5: To increase the size of canopy signs from 8 square feet to 55 square feet - Section 80-431(a)(10)(a)

Based upon this review, staff recommends:

**APPROVAL** of Part 1: To reduce the landscape buffer from 35 feet to 30 feet (along the portion of the frontage where the property line is jagged) - Section 80-90(e)(1)(a)

**APPROVAL** of Part 2: To reduce the rear yard setback from 30 feet to 15 feet - Section 80-90(e)(2)(c)

**DENIAL** of Part 3: To increase the number of wall/building signs from 2 to 3 (2 on the front façade, 1 on right side wall) - Section 80-431(b)(2)(a)(d)

**DENIAL** of Part 4: To increase the square footage of a monument from 64 square feet to 76.13 square feet - Section 80-431(b)(1)(b)

**DENIAL** of Part 5: To increase the size of canopy signs from 8 square feet to 55 square feet - Section 80-431(a)(10)(a)

Commissioner Williams needed clarification pertaining to the square footage. Ms. Peeks verified that the square footage should be 76.13. The square footage of 76.12 was read in error.

Commissioner Smith wanted to verify that no exceptions were made for this applicant. Ms. Peeks responded and said no the sign ordinance and zoning regulations were used to review the applications and make the recommendations.

Commissioner Phillips, pertaining to Part 1, wanted to know the effect pertaining to the high traffic intersection if the landscape buffer is reduced from 35 feet to 30 feet and would the change straighten out the property lines. Commissioner Phillips also inquired about the public safety in the area. Ms. Peeks stated the reason why the applicant is asking for the variance in the area where the property line is jagged is to streamline and make the landscape buffer straighter and

parallel to Highway 74; therefore there would not be any additional safety hazards because of the 5 foot reduction.

Commissioner Williams stated based upon staff's recommendations, pertaining to Part 1, that the ordinance would define the condition whereby the commissioners would approve or disapprove and according to reading the ordinance it would fall in line with being approved.

Commissioner Phillips inquired if the lanes will need to be increased in the future due to the high traffic area and would that effect the decision pertaining to Part 1. Ms. Walker stated along state route 74 and I-85 interchange should not be affected by this project. Ms. Walker stated if additional right of way is needed we will work that out with the contractor that is doing the design phase for I-85 interchange and this gas station will be in place before the design phase is completed

Commissioner Williams stated based upon current conditions no impediments are foreseen. Ms. Walker stated No there are not any impediments.

Pertaining to Part 4, Commissioner Knight asked if there have been any signs in the area that have been satisfied. Ms. Peek's stated there may be some signs that are grandfather in or non-conforming signs but since she has been here there have not been any permitted under her tenure that she can positively speak on that's larger than the ordinance allowed. Commissioner Knight wanted clarity pertaining signs not being satisfied as to whether that would mean more information is needed. Ms. Peek's stated no, the criteria for variance have not been satisfied, meaning there is no hardship. Commissioner Knight stated based on the sign rendering information, can a waiver be given. Ms. Peek's stated no waivers are offered on signage. An applicant can submit for a variance and would have to demonstrate a hardship or unnecessary due hardship, then it would be up to staff to analyses and then bring before the Commissioners to make a final decision.

Pertaining to Part 5, Commissioner Knight wanted to know if this information was presented for discussion prior to being brought to the Commissioners. Ms. Peek's stated yes there was a pre application meeting where the applicant submitted to staff what they were proposing and there were some discussion on what was allowed and what was not allowed. The applicant is aware of staff's recommendation prior to this meeting.

Commissioner Williams needed a clarification on any of the conditions being spoken upon, as to whether they are all governed by the ordinance. Ms. Peek's confirmation was yes. Commissioner Williams continued to say that no personal feelings should get in the way of making a decision. The decisions should be based on the ordinance.

Spoke In Favor: Larry Dingle Paces Ferry Road, representing RaceTrac Petroleum, Inc.  
Attorney Ross stated up to 30 minutes will be allowed for comments.

Mr. Dingle stated for 1<sup>st</sup> variance, look at tab 4, there is a fold out that show at this location there is a property line that jogs at a right angle, that is why they are requesting to straighten out the line because of safety issue with making the right turn. Mr. Dingle stated the 2<sup>nd</sup> request is found in the same tab, reducing the set back to 15 feet. The depth of the lot is narrow and in order to have a functioning retail store, 57 feet of depth of the actual building is needed. If the building is moved back to required setback, the public will walk out of the building into truck traffic. The change would serve the interest of the public if approved. Mr. Dingle stated tab 6 represented existing conditions. He stated the first few pages represent approximately 800 square feet of commercial speech pertaining to signage and clutter along Senoia Road. Mr. Dingle said the

pictures were taken to give an idea of what the area looked like and to show how much actual commercial speech is already on the site. He said at the end of the section there is a free standing billboard on the tire store side and then the next division goes to the Raceway property which has an 850 square foot sign/billboard, that's not allowed but is a legally non-conforming billboard. Mr. Dingle stated there are a monument sign and large circle sign that have RaceWay on both sides. Mr. Dingle requested that the Commissioners turn to Tab 7 and look at the top of the page that shows the top of the building that will face Oakley Industrial Boulevard. Mr. Dingle stated that 15 square feet of signage is allowed. Mr. Dingle stated the RaceTrac sign will be 41 square feet and the sign to the left is the yogurt sign which will be 42 square feet. Mr. Dingle stated it was their understanding that the measurement of the sign area, which is how they arrived at the calculated 76.13 square feet, is the way the sign should be measured. The proposed sign above the canopy is 55 square feet. Mr. Dingle referred to tab 2, sets out the purposes and intent that the City Council had in mind pertaining to the sign ordinances. Mr. Dingle feels the relevant purposes that the Mayor and Council intended in acting the article was to balance the rights of the individual to convey their messages through signs and for the public to be protected against unrestricted, proliferation of signs. Mr. Dingle stated the 2<sup>nd</sup> purpose is the effective regulations will be to lessen hazardous conditions and visual clutter cause by improper placement, excessive height, and size of signs. He referred to the 3<sup>rd</sup> relevant purpose was uncontrolled and unlimited signs degrade the aesthetic conditions and the attractiveness of the community thereby it undermines the economic value of tourism visitation and economic development. He stated the 4<sup>th</sup> purpose is through proper regulation of signs the attractiveness and economic well being of the City of Fairburn will be enhanced by the placement, as a place to live work and do business. Mr. Dingle stated the 5<sup>th</sup> purpose is signs may contribute to aesthetic nuisance and be a detriment to properties values and the city public welfare. He referred to the 6<sup>th</sup> purpose as uncontrolled, unlimited signs may result in roadside clutter.

Mr. Dingle requested the Commissioners to refer to the sign regulations, which is in tab 3. Mr. Dingle was trying to show that they are following the sign ordinance. On both sites currently there are 1,866 square feet of signage. He said they are not asking for anything extra just some help to try and achieve the objective of the ordinance. Mr. Dingle stated they are proposing instead of having a sign at either end they want to have one sign that is 55 square feet. Commissioner Knight asked as to whether the three (3) signs met the criteria. Mr. Dingle stated no, they didn't meet the criteria and that is why there is a necessity for the variance. Mr. Dingle stated they want to reduce the authorized amount of commercial speech/signage on site by four (4) square feet which means they will have 4 feet less square footage than the ordinance allowed therefore they have to figure out how to allocate the square footage. They want to do two (2) tasteful signs versus one unattractive sign. They also want to be able to add 12.3 square feet to the monument sign. Commissioner Williams confirmed that the signs they are proposing which are 41 and 42 square feet are to be put on the front of the building which does not coincide with the ordinance that states one sign. Mr. Dingle stated that was correct and to get back to the goals of the ordinance which is to reduce clutter. He said the proposed building will be longer than normal and therefore it would make sense for the signs to be spread out across the building. He states he doesn't think there is any dispute as to what they are proposing is better than the existing condition and he doesn't believe anyone would say what they asking for is unreasonable. Mr. Dingle stated the question is does it comply with the one requirement which is dealing with RaceTrac's harmony with the general purposes of the ordinance. Commissioner Williams asked if the two signs would create any hazard for the public as they go in and out of the facility. Mr. Dingle responded with No, their intention is to reduce hazard. Their whole desire is to work with the City of Fairburn to reduce the sign clutter. Mr. Dingle stated everything shown in Division 6 goes away including the billboard. Commissioner Williams asked if RaceTrac has considered having two signs in one location. Mr. Dingle stated they have considered it but that would be a huge sign.

Commissioner Knight and Mr. Dingle discussed a paragraph pertaining to hardship. Mr. Dingle stated that the ordinance at least one of the conditions should be met.

Commissioner Williams asked if he thought they met one and Mr. Dingle stated they did. Commissioner Williams asked for an explanation as to which criteria was met. Mr. Dingle elaborated as to how they met one of the conditions. Mr. Dingle firmly believes they are complying with the conditions to lesson clutter, placement, excessive height and size.

Commissioner Phillips verified that the signage with the big tire and the entire structure will be removed. Mr. Dingle confirmed that was correct. Commissioner Phillips inquired as to whether the new signage shown at tab 7, would be a picture of what the sign would look like. Mr. Dingle stated yes and no. Mr. Dingle discussed the images that would not be on the sign and talked about the images that are being proposed. Commissioner Phillips inquired as to whether part of the 76.13 square foot sign would be lit. Mr. Dingle confirmed that was correct. Commissioner Phillips asked if there will be any lit signs on the Oakley Industrial Side. Mr. Dingle stated they have a right to have a monument sign on Oakley Industrial side but they are for going the right to have that monument sign due to this lot being on the corner. In effort to coincide with what the City is trying to do they relinquish that sign as well stated Mr. Dingle. Commissioner Phillips questioned pertaining to where the canopy is located and the demolishing of both buildings, how far will the sign spread. Mr. Dingle stated from the corner of Oakley Industrial Boulevard to midway where the tire store is. Mr. Dingle thanked the Commissioners.

Spoke Against: None

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

Commissioners Williams stated the two (2) proposed signs for the front of the building, based on the ordinance seem like there is discretion as to how this can be received; more explanation is requested pertaining to the denial from staff. Ms. Peeks stated the denial is based upon what the sign ordinance allows. Ms. Peeks reiterated the sign regulations. Commissioner Williams stated the applicant made a statement concerning the three (3) conditions that were required in the ordinance and feels he has met one of the conditions. Commissioner Williams went on to say even though the ordinance says one sign, but one of the conditions have been met then the variance can be approve. Based upon Mr. Dingle's presentation, Commissioner Williams agreed with approving the variance pertaining to the signs. Commissioner Williams stated maybe we should reconsider and look more at the three (3) conditions and consider them because they are discretionary in some instances and it may give more of an aesthetic value to the building. Ms. Peeks stated when reviewing the application she did look at all three, (a, b, and c) and her opinion differed from Mr. Dingle's opinion on whether or not it meets harmony. Ms. Peeks further stated when the Mayor and Council adopted the sign ordinance they particularly put in place square footage and height requirement. Ms. Peeks stated so if anything goes against those particular regulations it is not in harmony with the intent and purpose of the ordinance unless the applicant demonstrates a hardship. Ms Peeks feels as though the applicant have not demonstrated a hardship. The Commissioners can approve the variance if they feel the applicant has demonstrated a hardship or does meet the criteria for harmony. Commissioner Williams stated he is recommending approval on part 3 based upon information received and the applicant meeting part A condition for a variance.

Commissioner Smith asked Ms. Peeks to re-read staff's recommendations for all five (5) parts of the variance. Ms. Peeks read out loud staff's recommendations for all five variance requests.

Commissioner Knight stated looking at the overall picture on how it is going to look and appear

in the city, less signs will appear to look better than too many signs. Commissioner Knight continues to say with the signs spaced out he can't see or recognize the footage. Commissioner Knight stated we have to look at the law and the intent and he asked staff to look at it again to see how they can compromise because it would be for the best appearance for the City.

Commissioner Phillips stated all of the signage will be removed therefore the grandfather clause will no longer exist and the new ordinance takes precedence and should be adhered to. Ms. Peeks clarified that the only non conforming grandfathered sign would be the billboard therefore the only thing we are considering is what is in the ordinance now. Commissioner Phillips stated he didn't find a hardship but he does like the aesthetics, pleasing to the eyes.

Commissioner Williams stated based upon the language that is in the three (3) conditions, the language leaves room for someone to make their own decision based upon their discretion. Commissioner Williams further stated based upon what he has heard from the applicant and what he has read based on what he is requesting, the applicant meets part A condition for a variance. Commissioner Williams continued to state it didn't say the applicant had to have a hardship, he does meet the aesthetic condition and it does give the discretion to make the decision. Ms. Peeks reiterated it is within the Commissioner's right to vote to approve the variance request.

**Part 1 Motion and Vote:** Commissioner Williams moved to APPROVE the Part 1 variance for RaceTrac. Commissioner Phillips seconded. **The motion carried.**

**Part 2 Motion and Vote:** Commissioner Williams moved to APPROVE the Part 2 variance for RaceTrac. Commissioner Smith seconded. **The motion carried.**

Phillips wanted to know would reducing the setback to 15 feet would put RaceTrac on the property line and affect the property in the rear of the RaceTrac property. Ms. Peeks confirmed it really would not affect the adjacent owner. She stated a letter of support from the property owner was submitted. Also, the property owner has requested a fence and all of the details have been discussed and worked out between the two properties pertaining to the 15 feet setback.

**Part 3 Motion and Vote:** Commissioner Williams moved to APPROVE the Part 3 variance for RaceTrac. Commissioner Smith seconded. Commissioner Phillips and Vice-Chair Echols opposed. **The motion carried.**

**Part 4 Motion and Vote:** Commissioner Williams moved to DENY the Part 4 variance for RaceTrac. Commissioner Wade seconded. Commissioners Smith, Knight, and Phillips opposed. The motion failed. Chair Stoney moved to deny. **The motion to deny carried.**

**Part 5 Motion and Vote:** Commissioner Williams moved to DENY the variance for RaceTrac Part 5. Vice-Chair Echols seconded. Commissioner Phillips opposed. **The motion carried.**

#### **Conceptual Plan 16C-002 7845 Senoia Road-RaceTrac Petroleum**

**SUMMARY/STAFF PRESENTATION:** The applicant is proposing to construct a nine (9) pump self-service gasoline station with 5,488 square feet retail space. The two existing buildings on the site will be demolished. The proposed project will require approximately 27 standard parking spaces. The applicant will be required to meet all parking regulations. The site has existing ingress/egress along Senoia Road. The first driveway along Senoia Road (at the intersection of Oakley Industrial Boulevard and Senoia Road) will be eliminated and an additional driveway (ingress/egress) onto Oakley Industrial Boulevard will be created.

Staff recommends APPROVAL CONDITIONAL of the conceptual site plan to construct a nine

(9) pump self-service gasoline station with 5,488 square feet retail space.

Should the Planning and Zoning Commission decide to approve the conceptual site plan, 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 Planning and Zoning Commission.

1. To the Conceptual Site Plan submitted to the Department of Community Development dated received September 27, 2016. Said site plan is conceptual only and must meet or exceed the requirements of the City's regulations and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
2. Prior to construction, provide the city with copies of the approved agreements/easements between all involved parties/owners for the driveway; inter parcel access ways, and sidewalks. All plans for the road improvements shall be submitted reviewed and approved by the City Engineer and GDOT; and appropriate permits issued prior to construction and authorization.
3. The ingress/egress access drive (curb cut) located on Senoia Road, at the intersection of Senoia Road and Oakley Industrial Boulevard, shall be eliminated; creating only one access drive (curb cut) on Senoia Road (Highway 74).

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

Spoke In Favor: Larry Dingle Paces Ferry Road, representing RaceTrac Petroleum, Inc. Mr. Dingle stated they are happy with staff's recommendation.

Spoke Against: None

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

**Motion and Vote:** Commissioner Williams made a motion to APPROVE RaceTrac Petroleum Conceptual Site Plan. Commissioner Phillips seconded. **Motion carried.**

#### **Preliminary Plat 16P-005 RaceTrac Petroleum**

**SUMMARY/STAFF PRESENTATION:** For Planning and Zoning Commission to review and make a recommendation on a preliminary plat for RaceTrac Petroleum.

Staff recommends APPROVAL of the RaceTrac Petroleum Preliminary Plat.

*(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 made a motion to APPROVE RaceTrac Petroleum Preliminary Plat. Commissioner Wade seconded. **Motion carried.**

#### **IV. STAFF COMMENTS: No Comments**

- V. **COMMISSION MEMBERS COMMENTS:** Commissioner Phillips thanked everyone and said that the decision on RaceTrac will have a great affect on the city for years to come. Chair-woman Stoney thanked Staff, RaceTrac representative and Commissioners.

VI. **ADJOURN:**

**Motion and Vote:** Commissioner Phillips moved to adjourn. Commissioner Smith seconded. The motion carried.

Meeting adjourned at 8:00 p.m.

Approval Signatures	
Date Approved	12/6/2016
Elise Stoney, Chairman	Elise Stoney
Rachelle Eyma, Recording Secretary	R Eyma