

PLANNING AND ZONING COMMISSION MEETING MINUTES (SPECIAL CALLED MEETING)

**City Hall
56 Malone Street
Fairburn, GA. 30213
Tuesday, March 3, 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 Planner:
City Engineer:
City Attorney:
City Attorney:
Recording Secretary:

Tarika Peeks
Linda Abaray
Brendetta Walker
Valerie Ross
Meredith Germain
Jessica McNeal

- 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. AGENDA FOR MEETING (ADDITIONS, DELETIONS, ADOPTION)**
Motion and Vote: Echols moved to approve the agenda. Knight seconded. **The motion carried.**
- VI. PUBLIC HEARING: EACH SIDE RECEIVED 60 MINS TO PRESENT**

Secondary Variance/interpretation: Lockridge Outdoor Advertising: The applicant is proposing to Appeal of the Zoning Administrator's denial of eight (8) sign permits applications.

Permit No. 15S-068 - **DENIED**
Sign Location: 8500 Senoia Road

REASONS FOR DENIAL:

- **There is an existing freestanding sign on the property.** *Per Section 80-431(b)(1)(a)-Non-residential allowable signs, Freestanding and Monument signs*
- **The proposed sign dimensions exceed the maximum allowed square footage and height.** *Per Section 80-431(b)(1)(a)-Non-residential allowable signs, Freestanding and Monument signs. Per Section 80-431(b)(1)(c)*-Non-residential allowable signs, Freestanding and Monument signs.*

**There are two "c" sections in 80-431(b)(1), this is referring to the second "c" section that should be "d".*

- **According to the sign permit application, the proposed sign is not located 15 feet from the right-of-way. Per Section 80-431(b)(1)(e)-Non-residential allowable signs, Freestanding and Monument signs**
- **Incomplete sign permit application. The information highlighted in “red” was not submitted. Per Section 80-430(b)-Sign Permit Requirements**
 - 4) *One accurate scale drawing of the sign plans, specifications, and method of construction and attachment to the building or ground for the sign as well as a scale drawing of the site showing driveways, structures, existing and proposed signs and any other limiting site features;*
Correction: scale drawing of the sign plans, specifications and the method of construction was submitted and attachment to the building or ground for the sign.
 - 5) *One color rendering of the proposed sign;*
 - 7) *Name of business or activity at the address where the sign is to be erected if any;*
 - 8) *A copy of the occupational tax license for the business where the sign is to be erected;*
 - 11) *Written consent of the owner of the building or lot upon which the sign is to be erected; Note: Bill boards are allowed on I-85 or along a federal highway*

Permit No. 15S-069 - **DENIED**

Sign Location: 424 East Broad Street

REASONS FOR DENIAL:

- **The proposed sign dimensions exceed the maximum allowed square footage and height. Per Section 80-431(b)(1)(c)*-Non-residential allowable signs, Freestanding and Monument signs. Per Section 80-431(b)(1)(c)*-Non-residential allowable signs, Freestanding and Monument signs.**
- **According to the sign permit application, the proposed sign is not located 15 feet from the right-of-way. Per Section 80-431(b)(1)(e)-Non-residential allowable signs, Freestanding and Monument signs**
- **Incomplete sign permit application. The information highlighted in “red” was not submitted. Per Section 80-430(b)-Sign Permit Requirements**
 - 4) *One accurate scale drawing of the sign plans, specifications, and method of construction and attachment to the building or ground for the sign as well as a scale drawing of the site showing driveways, structures, existing and proposed signs and any other limiting site features;*
Correction: scale drawing of the sign plans, specifications and the method of construction and attachment to the building or ground for the sign was submitted.
 - 5) *One color rendering of the proposed sign;*
 - 7) *Name of business or activity at the address where the sign is to be erected if any;*
 - 8) *A copy of the occupational tax license for the business where the sign is to be erected;*
 - 11) *Written consent of the owner of the building or lot upon which the sign is to be erected; Note: Billboards are allowed on I-85 or along a federal highway*

Permit No. 15S-070 - **DENIED**
Sign Location: 89 Howell Avenue

REASONS FOR DENIAL:

- **The proposed sign dimensions exceed the maximum allowed square footage and height; and there are three (3) freestanding signs currently located on the property.** *Per Section 80-431(b)(3)(a)(1)-Planned Centers. Per Section 80-431(b)(3)(a)(2)-Planned Centers*
- **Incomplete sign permit application. The information highlighted in “red” was not submitted.** *Per Section 80-430(b)-Sign Permit Requirements*
 - 4) *One accurate scale drawing of the sign plans, specifications, and method of construction and attachment to the building or ground for the sign as well as a scale drawing of the site showing driveways, structures, existing and proposed signs and any other limiting site features;*
Correction: scale drawing of the sign plans, specifications and the method of construction and attachment to the building or ground for the sign was submitted.
 - 5) *One color rendering of the proposed sign;*
 - 7) *Name of business or activity at the address where the sign is to be erected if any;*
 - 8) *A copy of the occupational tax license for the business where the sign is to be erected;*
 - 11) *Written consent of the owner of the building or lot upon which the sign is to be erected; Note: Billboards are allowed on I-85 or along a federal highway*

Permit No. 15S-071 - **DENIED**
Sign Location: 25 Word Street

REASONS FOR DENIAL:

- **The proposed sign dimensions exceed the maximum allowed square footage and height.** *Per Section 80-431(b)(3)(a)(1)-Planned Centers. Per Section 80-431(b)(3)(a)(2)-Planned Centers*
- **Incomplete sign permit application. The information highlighted in “red” was not submitted.** *Per Section 80-430(b)-Sign Permit Requirements*
 - 4) *One accurate scale drawing of the sign plans, specifications, and method of construction and attachment to the building or ground for the sign as well as a scale drawing of the site showing driveways, structures, existing and proposed signs and any other limiting site features;*
Correction: scale drawing of the sign plans, specifications and the method of construction and attachment to the building or ground for the sign was submitted.
 - 5) *One color rendering of the proposed sign;*
 - 7) *Name of business or activity at the address where the sign is to be erected if any;*
 - 8) *A copy of the occupational tax license for the business where the sign is to be erected;*
 - 11) *Written consent of the owner of the building or lot upon which the sign is to be erected; Note: Bill boards are allowed on I-85 or along a federal highway*

**There are two “c” sections in 80-431(b)(1), this is referring to the second “c” section that should be “d”.*

Permit No. 15S-072 - **DENIED**

Sign Location: 203 Irwin Road

REASONS FOR DENIAL:

- **The proposed sign dimensions exceed the maximum allowed square footage and height.** *Per Section 80-431(b)(1)(c)*-Non-residential allowable signs, Freestanding and Monument signs. Per Section 80-431(b)(1)(c)*-Non-residential allowable signs, Freestanding and Monument signs.*
- **According to the sign permit application, the proposed sign is not located 15 feet from the right-of-way.** *Per Section 80-431(b)(1)(e)-Non-residential allowable signs, Freestanding and Monument signs*
- **Incomplete sign permit application. The information highlighted in “red” was not submitted.** *Per Section 80-430(b)-Sign Permit Requirements*

4) One accurate scale drawing of the sign plans, specifications, and method of construction and attachment to the building or ground for the sign as well as a scale drawing of the site showing driveways, structures, existing and proposed signs and any other limiting site features;

Correction: scale drawing of the sign plans, specifications and the method of construction and attachment to the building or ground for the sign was submitted.

5) One color rendering of the proposed sign;

7) Name of business or activity at the address where the sign is to be erected if any;

8) A copy of the occupational tax license for the business where the sign is to be erected;

11) Written consent of the owner of the building or lot upon which the sign is to be erected; Note: Billboards are allowed on I-85 or along a federal highway

Permit No. 15S-073 - **DENIED**

Sign Location: 627 Senoia Road

REASONS FOR DENIAL:

- **The proposed sign dimensions exceed the maximum allowed square footage and height; and there is one (1) billboard and one (1) freestanding sign currently located on the property.** *Per Section 80-431(b)-Non-residential allowable signs, Freestanding and Monument signs. One monument or freestanding sign on one of the street frontages; provided no such sign is larger than 64 square feet. Per Section 80-431(b)(1)(c)*-Non-residential allowable signs, Freestanding and Monument signs. Maximum height of a freestanding or monument sign shall be as follows: Twenty (20) feet in C-2 zoning district.*
- **According to the sign permit application, the proposed sign is not located 15 feet from the right-of-way.** *Per Section 80-431(b)(1)(e)-Non-residential allowable signs, Freestanding and Monument signs*
- **Incomplete sign permit application. The information highlighted in “red” was not submitted.** *Per Section 80-430(b)-Sign Permit Requirements*

4) One accurate scale drawing of the sign plans, specifications, and method of construction and attachment to the building or ground for the sign as well as a

scale drawing of the site showing driveways, structures, existing and proposed signs and any other limiting site features;

Correction: scale drawing of the sign plans, specifications and the method of construction and attachment to the building or ground for the sign was submitted.

- 5) One color rendering of the proposed sign;*
- 7) Name of business or activity at the address where the sign is to be erected if any;*
- 8) A copy of the occupational tax license for the business where the sign is to be erected;*
- 11) Written consent of the owner of the building or lot upon which the sign is to be erected; Note: Billboards are allowed on I-85 or along a federal highway*

Permit No. 15S-074 - **DENIED**

Sign Location: 8480 Senoia Road

REASONS FOR DENIAL:

- **There is an existing freestanding sign on the property.** *Per Section 80-431(b)(1)(a)-Non-residential allowable signs, Freestanding and Monument signs.*
- **The proposed sign dimensions exceed the maximum allowed square footage and height.** *Per Section 80-431(b)(1)(a)-Non-residential allowable signs, Freestanding and Monument signs. Per Section 80-431(b)(1)(c)*-Non-residential allowable signs, Freestanding and Monument signs.*
- **According to the sign permit application, the proposed sign is not located 15 feet from the right-of-way.** *Per Section 80-431(b)(1)(e)-Non-residential allowable signs, Freestanding and Monument signs.*
- **Incomplete sign permit application. The information highlighted in “red” was not submitted.** *Per Section 80-430(b)-Sign Permit Requirements*
 - 4) One accurate scale drawing of the sign plans, specifications, and method of construction and attachment to the building or ground for the sign as well as a scale drawing of the site showing driveways, structures, existing and proposed signs and any other limiting site features;*
Correction: scale drawing of the sign plans, specifications and the method of construction and attachment to the building or ground for the sign was submitted.
 - 5) One color rendering of the proposed sign;*
 - 7) Name of business or activity at the address where the sign is to be erected if any;*
 - 8) A copy of the occupational tax license for the business where the sign is to be erected;*
 - 11) Written consent of the owner of the building or lot upon which the sign is to be erected; Note: Billboards are allowed on I-85 or along a federal highway*

**There are two “c” sections in 80-431(b)(1), this is referring to the second “c” section that should be “d”.*

Permit No. 15S-075 - **DENIED**
Sign Location: 57 Jonesboro Road

REASONS FOR DENIAL:

- **The proposed sign dimensions exceed the maximum allowed square footage and height.** *Per Section 80-431(b)(1)(a)-Non-residential allowable signs, Freestanding and Monument signs. Per Section 80-431(b)(1)(c)*-Non-residential allowable signs, Freestanding and Monument signs.*

**There are two "c" sections in 80-431(b)(1), this is referring to the second "c" section that should be "d".*

- **According to the sign permit application, the proposed sign is not located 15 feet from the right-of-way.** *Per Section 80-431(b)(1)(e)-Non-residential allowable signs, Freestanding and Monument signs.*
- **Incomplete sign permit application. The information highlighted in "red" was not submitted.** *Per Section 80-430(b)-Sign Permit Requirements*

4) One accurate scale drawing of the sign plans, specifications, and method of construction and attachment to the building or ground for the sign as well as a scale drawing of the site showing driveways, structures, existing and proposed signs and any other limiting site features;

Correction: scale drawing of the sign plans, specifications and the method of construction and attachment to the building or ground for the sign was submitted.

5) One color rendering of the proposed sign;

7) Name of business or activity at the address where the sign is to be erected if any;

8) A copy of the occupational tax license for the business where the sign is to be erected;

11) Written consent of the owner of the building or lot upon which the sign is to be erected; Note: Bill boards are allowed on I-85 or along a federal highway

**There are two "c" sections in 80-431(b)(1), this is referring to the second "c" section that should be "d".*

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

Spoke In Favor: Adam Webb (on behalf of Lockridge) He gave a background of the owners and talked about their character. Webb stated the owners saw that there was a need for more advertising on surface roads within the city. Webb gave his reasons as to why the applications should not have been denied. Williams questioned as to whether the statement given by Webb, referring to the sign ordinance within the City of Fairburn is unconstitutional; an alleged statement or fact. Webb referred to the Georgia Supreme Court making a unanimous decision in 2007, that any city that says signs are not permitted herein or deemed prohibited is an unconstitutional sign ordinance. Williams queried as to whether there had been any litigations toward the City of Fairburn that established the sign ordinance being unconstitutional. Webb responded no. Williams stated that Webb quoted a case that goes against the ordinance in Fairburn but asked if there are any cases supporting the ordinance. Webb responded no, not since 2007.

Tony Lockridge (owner's son) talked about his views pertaining to advertising and discussed his research process pertaining to the City of Fairburn to determine if there was a need for advertising. Lockridge also talked about the properties chosen and how they were planning to make this form of advertising materialize. Lockridge further discussed the process of submitting

the applications and obtaining to various information needed to complete the applications. Williams stated the various areas pertaining to the signs in question, do not allow signs of the magnitudes submitted; therefore the signs exceeded the dimensions in the sign ordinance. Webb stated the denials submitted by the City and Lockridge gave reasoning to counter the denials.

Knight asked how the City responded to setbacks for billboards. Peeks offered to read that particular section of the ordinance but the time did not allow. Ross stated the section pertaining to setbacks can be discussed during rebuttal. Per Webb, there's a maximum setback of 150 feet not minimum in the ordinance.

Wade inquired as to whether the businesses would advertise for their own business. Lockridge said no they wouldn't; only Lockridge would do the advertising.

Conversation pertaining to Occupational License was had.

Lockridge thanked everyone for their time and he feels that he adequately addressed all of the reasons for denial as given by the City of Fairburn.

Webb request to ask Peeks additional questions but was denied permission by the City Attorney, Ross.

Each side was given 10 mins to give rebuttal.

Peeks read the actual regulations for billboards from the ordinance and stated reasoning as to why the billboards were not permissible within the areas requested. The billboard applications from Lockridge were in commercial zoned areas but according to the City of Fairburn's ordinance, billboards are not allowed in the requested areas as Peeks stated. Peeks detailed I-85 is a Federal Highway and Highway 74 is not Federal Highway. Highway 29 is a Federal State route. Knight indicated the type of sign in question would have to go through the state and asked if the state approved it, would we approve the sign as well. Peeks stated billboards originate through the city and is not approved according to states approval they are approved according to the City's ordinance. The state requires approval as well.

Williams specified each entity has their own regulations and laws to follow. Knight inquired about the signs/billboards along Highway 29 that do not follow the ordinance. Peeks stated during her tenure, no billboards have been approved for Highway 29 and the current signs/billboards in question may be legal non-conforming signs from previous years. Phillips asked whether the billboards in question are they pertaining to Highway 74 or Highway 29 overlay and was given a no response.

Peeks identified the property at 627 Senoia Road (Chevron on Highway 74) that was referred by Knight is a legal non-conforming sign and was permitted in the late 1990's or early 2000's and the property is along I-85. Peeks stated the drawings Lockridge referred to as being to scale, were not and also was not your typical engineered drawings, therefore were reviewed by City Engineer (Walker) and she concurred with Peeks stating they are not engineered drawings. Peeks stated the sign permit requirement pertaining to the property owner giving Lockridge permission to install the sign was not given; only a lease agreement between Lockridge and the property owner was submitted. A letter of consent or a document from the property owner to the City of Fairburn was requested from Lockridge stating Lockridge had permission to install the signs/billboards on each property; but it was not submitted to the City. As stated in Section 80-430(b) - Sign Permit Requirements. *(10) Such other information as the zoning administrator shall require to show full compliance with this and all other ordinances of the city;* therefore the Zoning Administrator can ask for additional information in order to grant approval/denial. The locations on the applications do not allow billboards. As reiterated by Peeks, they are only permitted along I-85 or any other Federal Interstate Highway. The applications were submitted for freestanding signs and were reviewed according to the information submitted.

Webb thanked everyone involved and stated Ms. Peeks has done a great job and the City Attorneys as well. Webb stated billboards are limited by a certain section of the code, different

from other signs and he felt a lot of the regulations did not apply. They would love for the city to look at the situation down the straight and narrow. Webb stated Lockridge would love to hear about any sensitive issues anyone may have. Webb reiterated that the sign ordinance for the City of Fairburn is unconstitutional. Section 80-434 sub section 26 stated all signs not specifically permitted or allowed by this chapter are prohibited. Webb identified The Georgia Supreme Court had a Case in Fulton County 2007 which banned all signs, then decide on a case by case basis which ones will be permitted is the antithesis of the narrow tailoring that is required under the first amendment. Webb indicated that case struck down the entire Fulton County sign code and dozens of signs as a result of that case is the reason Lockridge has been able to be put them up. Webb referred to Section 80-436 and it states all other signs must be permitted by the City before displaying, or they are prohibited. Webb specified the City has a backward way of looking at signs. Webb indicated there are 26 banded signs and the Georgia Supreme Court said that's not how it should be done. Webb indicated all signs are legal and the City should set up a few categories that you can show why they specifically violate traffic safety etc., and then you impose your regulations, not the other way around. Also Georgia least restricted means test has not been followed in Fairburn and Georgia is one of the strongest states of free speech rights and you must establish that your sign regulations are the least restricted means. Webb wanted to encourage the City of Fairburn to pass a moratorium and adopt a new and corrected sign code. Webb reiterated that the City of Fairburn should allow Lockridge to place the billboards up within the City.

Spoke Against: None

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

Williams asked Peeks if she stated within her rebuttal that all of the signs are free standing signs. Peeks stated yes, on the application the free standing box was checked.

Motion and Vote: Williams moved to wholly affirm the decision of the Zoning Administrator as stated in the Notice of Decisions dated January 15, 2016. Phillips seconded. Knight voted against. **The motion carried.**

VII: COMMISSION MEMBERS COMMENTS: Knight appreciated being there to consider the appeal and appreciated everyone pertaining to the appeal. Knight specified it wasn't clear pertaining to the highways based on the information he was given. Knight stated this matter should be reviewed further before it cost the City legal funds due to having open doors in the ordinance. Knight thanked the board for coming up with the decision and how they were able to handle this matter in an orderly fashion.

Phillips thanked both parties for their professionalism and expressed how he thoroughly reviewed documentation given and was glad that a decision was made based on the research.

Wade thanked both parties and stated because he had all of the information needed, it made his decision a lot easier to decide.

Williams thanked both parties for the information given and for everyone being in attendance.

Echols appreciated all the effort and hard work from both sides. Echols said there was a lot of worthy information given and hopefully Lockridge can find another way to do business with the City of Fairburn.

Smith stated we have a City ordinance as any other city which we have to follow and that was what he based his decision on.

Stoney thanked everyone for coming out for the appeal and for the preparation in the presentation. Stoney stated maybe Lockridge can find another way to work with the city.

VIII: ADJOURN: Motion and Vote: Williams moved to approve. Knight seconded. **The motion carried.**

Meeting adjourned at 8:42 p.m.

Approval Signatures	
Date Approved	April 5, 2016
Elise Stoney, Chairman	Elise Stoney
Jessica McNeal, Recording Secretary	Jessica McNeal