COUNTY DEPARTMENT AGENDA REQUEST

Department:	Planning & Zoning	Presenter(s):	Jason Thompson
Meeting Date:	Wednesday, July 1, 2009	Type of Request:	New Business

Wording for the Agenda:

Discussion of request from Attorney Jason Thompson that consideration be given to amending the County's Zoning Ordinance related to the requirements for the size and pitch of gasoline canopy roofs located in the County's Overlay Zones.

Background/History/Details:

The County's overlay standards require that non-residential structures have a "residential" appearance and include requirements for the type and pitch of roofs, including those for gasoline canopies. It is possible that under the current regulations, a gasoline canopy can "overwhelm" the building itself. This is the concern that Mr. Thompson has for his client, Race Trac Petroleum, Inc. who is planning a facility at the southwest corner of the intersection of Ramah Road and Georgia Highway 85.

Additionally, there is concern from the County's Fire Services about the roof pitch requirements and the ability of our firefighters to safely attack a fire in the space underneath a steeply pitched canopy or roof facade.

What action are you seeking from the Board of Commissioners?

BOC direction concerning staff review of the County's ordinances and regulations related to the size and pitch of roofs on gasoline canopies and non-residential structures. The staff would review the ordinances, including input received from the public, with the Planning Commission. Any recommended amendments to ordinances will be brought back to the Board of Commissioners for consideration at a Workshop prior to required public hearings. This process, at best, could take several months.

If this item requires funding, please describe:

Has this issue come before the Commissioners in the past?	No	If so, when?	
Do you need audio-visual for the presentation?		Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Yes	Reviewed by Legal	Yes
Approved by Purchasing	Yes	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

2. **Consideration of Petition No. A-572-09, RaceTrac Petroleum, Inc., Owner, and Richard P. Lindsey and Jason B. Thompson, Agents, request two (2) Variances from the General State Route Overlay Zone requirements: 1) to eliminate the requirement for mullions on the windows; and 2) to construct a mansard roof instead of a pitched peak roof for the development of a RaceTrac Fuel Center. This property consists of 2.269 acres, is located in Land Lot 70 of the 5th District, fronts on SR 85 South and Ramah Road, and is zoned C-H.**

Attorney Rick Lindsey stated that he was representing RaceTrac who was requesting two (2) variances; however, they are trying to go where the County wants them to go by making the gasoline canopy residential in character. He said one (1) request was due to safety, both for watching for possible drive-offs, for the workers and patrons inside the store. He remarked RaceTrac wanted to provide clear vision from inside and outside the store. He asked to modify the request for elimination of the mullions and requested to decrease the number of grids for the various windows. He reiterated the main concern was a clear view from inside and outside the store, especially for law enforcement. He commented that he had reviewed the Minutes from a previous request regarding the elimination of the mullions. He pointed out that there were not a minimum number of grids required by the Ordinance. He read Section 7-6.,4.,c. regarding the appearance of smaller individual panes. He said that there is no requirement in the Ordinance regarding the size or number of the grids. He read 7-7,A.,5.,a.,1. regarding the division of the windows into more than two (2) smaller panes. He added that his client wanted to minimize the number of grids but maintain a residential appearance. He noted that the store was going to have a façade of brick and stucco with architectural features such as shutters. He said his client was proposing to have grids closer to the top of the window to allow a clearer view and referenced the windows in the Public Meeting Room. He commented his client preferred two (2) grids. He stated that the request was called a variance; however, it is more a definition and feel from the ZBA to decrease the number of grids.

Chairman Blanks advised Attorney Lindsey that the number of grids is not an item which the Zoning Board of Appeals (ZBA) would address; however, the Zoning Administrator would address the number required. He stated the ZBA would be considering whether to allow the elimination of mullions or not.

Attorney Lindsey presented a drawing showing the grids which give the appearance of a prison. He advised that he would discuss the mullions with the County staff. He requested to withdraw the variance request regarding the elimination of the mullions. He asked Dennis Dutton if this was acceptable.

Mr. Dutton replied, "Yes sir".

Chairman Blanks asked if the variance request regarding the mullions could be withdrawn.

Mr. Dutton replied, "Yes sir".

Attorney Lindsey referenced the second variance request regarding the required pitched peak roof for the gasoline canopy. He said the only reason for this request was because the size and height of the canopy would eat the site. He commented a mansard roof was preferred. He noted that the canopy ceiling would be 18 to 19 feet in height to accommodate trucks. He added that the pitched peak roof would be an addition of 14.5 feet which would be close to the maximum height allowed of 35 feet. He said the roof top should be approximately 31 or 32.5 feet. He pointed out that a mansard roof is allowed for a two-story or more building. He remarked that the canopy, in effect, would be about two-stories high since the ceiling height would be 18 to 19 feet. He confirmed that the Ordinance did contain a definition of "story". He reiterated that he was requesting the ZBA to make a determination that the canopy is a two-story structure and allow a mansard roof. He also reiterated that his client was trying to achieve the same goal as the County. He further reiterated that his client did not want an overwhelming roof of 32 to 33 feet in height while the store was only going to be 24 to 24.5 feet in height, depending on the grade of the site. He said that everyone driving down the highway would see this overwhelming roof. He reiterated his request for the canopy to be considered a two-story building and allow construction of a mansard roof which would lower the roof by approximately six (6) to seven (7) feet. He presented a drawing of a RaceTrac building to show the exterior facade; however, it did not comply with the overlay requirements. He said he would be happy to answer any questions.

Chairman Blanks asked if there was anyone to speak in favor of the petition.

Mike Mudd said he had a lease for the adjacent property from a company to come in immediately behind RaceTrac and develop an Express Oil Change which had been approved by the County. He stated that he owned a total of five (5) acres and hoped to develop the remaining two (2) acres when the market improves. He expressed concern about the overall streetscape by having a structure which is almost three (3) stories in height, 33 or 34 feet from the ground, which will dominate the entire intersection and take away from the overall appeal of what else is planned.

Chairman Blanks asked if there was anyone to speak in opposition of the petition. Hearing none and with no rebuttal required, he closed the floor from public comments.

Bill Beckwith remarked that he had driven by numerous gas stations and almost 100% of all the stations have signs in the window and safety doesn't seem to be an issue. He asked if RaceTrac had any policies regarding the obstruction of the view.

Attorney Lindsey replied that usually the entire front of the store is glass. He said that the signs and the stacking up of display items, while in front of the windows, are not usually placed in front of the sight line of the cashier looking outside. He stated that the store can control where the signs go, but there still needs to be a view into where the cashiers are located.

Mr. Beckwith remarked that law enforcement would want to see inside the entire store and it seems that a company would not allow the signage and display.

Chairman Blanks clarified that the responsibility of the ZBA was to rule either in favor or in opposition of the variance requests based on the Ordinance as written. He said that any unclear requirements should be worked out with the Zoning Administrator.

Mr. Beckwith asked if the ZBA needed to vote on the acceptance of the withdrawal request regarding the mullions.

Robyn Wilson advised the ZBA that they could vote on the withdrawal request.

Bill Beckwith made a motion to accept the withdrawal request regarding the mullions. Chairman Blanks seconded the motion.

Mr. Beckwith asked if it was an administrative duty of the Zoning Administrator to determine the requirements for the mullions.

Mr. Dutton replied that while the Ordinance does not address the number or size of the mullions, the Ordinance does address the residential appearance. He said that the number of grids would be discussed when the elevations are submitted for his review. He remarked that he should be able to discuss the plans and come to an agreement.

Vic Bolton asked if a motion is needed before discussion.

Mrs. Wilson advised that a motion and second could be made to allow further discussion; however, when the vote is called, a member may vote either in favor or in opposition.

Mr. Dutton replied that requiring a motion and second prior to discussion was a requirement of the previous counsel.

Chairman Blanks called for the vote on the current motion. The motion to accept the withdrawal regarding the mullions was unanimously approved 5-0.

Mr. Bolton asked is there were roof pitch requirements for the store and the gasoline canopy.

Mr. Dutton replied that the roof pitch is included for the gasoline canopy also.

Scott Gilbert asked if there were any drawings of the actual building to be constructed.

Attorney Lindsey presented a drawing indicating the elevations.

Brian Haren asked what would be the height of the gasoline canopy and store with compliance to the overlay.

Attorney Lindsey replied 25.4 feet for the store and 31 to 32.5 feet for the gasoline canopy.

Mr. Haren asked if the grade for each structure would be equal.

Attorney Lindsey replied that the site is fairly level. He presented a drawing indicating the height of the store and the canopy. He stated his client would like to reduce the canopy height by six (6) to seven (7) feet.

Mr. Bolton asked if there were any guidelines for the height of a gasoline canopy.

Attorney Lindsey replied that 18 to 19 feet is fairly standard in the industry to accommodate trucks to keep larger vehicles from tearing down the canopy.

Mr. Gilbert asked Attorney Lindsey to place the proposed and required drawing side by side for the ZBA to study.

Chairman Blanks questioned the comments that RaceTrac has constructed buildings similar to the requirements of Fayette County.

Attorney Lindsey replied that RaceTrac has constructed a store with a pitched roof but it just doesn't look as good. He presented pictures where a canopy is higher than the store and dominates the site. He said there could be balance in the site by using the right type of mansard roof with the same degree of pitch but not go all the way to the peak.

Mr. Bolton asked if there were other locations in the County with a pitched peak roof for a gasoline canopy.

Mr. Dutton replied there was a pitched peak roof for the gasoline canopy at SR 54 West and Huiet Road and Corinth Road and SR 54 East.

Chairman Blanks asked about SR 85 North and SR 279.

Mr. Dutton replied that this location fell under the SR 85 North Overlay, which did not require a pitched peak roof. He pointed out that there are three (3) overlays: SR 54 West, SR 85 North, and the General State Overlay.

Mr. Haren asked if there were engineering or industry standards for clearance of a gasoline canopy. He said a tanker truck would easily clear a structure lower than 18 to 19 feet.

Attorney Lindsey replied that he did not know; however, his client did not want to have someone run into the gasoline canopy. He added that his client did not want to build the canopy any higher than he had to because of the costs.

Mr. Haren stated that there appeared to be some room to play with because a tanker truck does not fuel under the canopy. He reiterated that the ceiling could be dropped which would reduce the overall height of the canopy. He added that there could be signage stating low clearance.

Chairman Blanks said he understood the canopy height may detract from the store; however, six (6) to seven (7) feet is not that much of a distraction. He commented that the request was a convenience especially since this type roof has been utilized before but is the not the type roof preferred by RaceTrac. He added that other gasoline canopies have complied with the requirement.

Attorney Lindsey remarked that the gasoline canopy would probably not be a deal killer; however, all of this is about aesthetics to make the store and canopy look as nice as possible. He confirmed that RaceTrac had constructed a pitched peak roof when required in the past but it does not look as good as the mansard roof. He said that if this request is denied that he highly recommended that the County review the Ordinance requirements. He stated that companies do not spend money just because they want to spend it. He noted that approval of the request would help everyone get to where they wanted to get by having a beautiful structure.

Mr. Bolton advised that the ZBA is challenged to interpret the Ordinance as written. He suggested that Attorney Lindsey address the Board of Commissioners (BOC) regarding the amendment of the Ordinance. He pointed out that a precedent has already been established by other gasoline canopies complying with the Ordinance.

Mr. Beckwith advised that he also serves on the Planning Commission (PC). He reported that many months of discussion were involved in the development of the overlay zones. He stressed that they were there for a purpose which is to try to create a specific character of the state routes. He said the development should comply with the overlay requirements.

Chairman Blanks concurred that aesthetically, the mansard roof looks better; however, it does not comply with the Ordinance.

Mr. Bolton commented that the ZBA could not rule on what makes one (1) structure more attractive or cost effective than others.

Mr. Haren said he was struggling to find a way to satisfy both sides.

Mr. Beckwith concurred with Chairman Blanks; however, the Ordinance is in place for a particular reason and there is no strong reason to vary the Ordinance.

Attorney Lindsey stated that if his client feels strongly enough about the mansard roof, since the structure is here pretty much permanently, he would like to talk to the ZBA about making a minor change to the overlay requirements for the gasoline canopy. He asked if the ZBA would care if he called them to discuss amending the Ordinance.

Mr. Beckwith replied that this would not be appropriate. He stressed that the ZBA was here to make a decision based on the Ordinance. He said he did not want to hear any phone calls from anybody. He noted that if the ZBA wanted to request an amendment that they could; however, it is not the ZBA's duty or responsibility to make any changes.

Attorney Lindsey commented that his client and the County were trying to get to the same place and obviously the BOC would be the level to deal with.

Mr. Bolton confirmed that the BOC would be receiving a copy of the Minutes.

Chairman Blanks asked if there was an appeal process of the ZBA's decision.

Mr. Dutton replied that the ZBA's decision could not be appealed to the BOC.

Hearing no further comments, Chairman Blanks called for a motion.

Scott Gilbert made a motion to deny second variance request regarding the construction of a mansard roof in place of a pitched peak roof. Vic Bolton seconded the motion. The motion for denial unanimously passed 5-0.

Attorney Lindsey thanked the ZBA for their time. He told Mr. Beckwith that he did not mean to offend anyone by requesting the BOC to make an amendment to the Ordinance.

Mr. Beckwith replied that he understood.