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OCT 02 2018

City of Johns Creek
Community Development

RZ-19-003
VC-19-003-01



Johns Creek

PRE-APPLICATION FORM

REZONING, USE PERMIT(S) AND CONCURRENT VARIANCE(S)

Purpose & Process

A Pre-Application Meeting provides you the opportunity to present a conceptual plan and letter of intent to a representative of the Community Development Department. This meeting benefits you, the applicant, by receiving general comments on the feasibility of the plan, the process(es)/procedure(s) and fees required to process and review the application(s). Please contact Marie Janvier at 678-512-3279 to schedule an appointment. This form will be completed during the pre-application meeting. After completing the pre-application meeting, the applicant may file the Land Use Petition.

Applicant: RaceTrac Petroleum Inc.

Site Address: 5805 State Bridge Road # Parcel Size: 2.3 acres

Proposal Description: Convert a 20,000 sq ft building to a 5400 sq ft modern convenience store.

Existing Zoning Designation and Case Number: C-1 conditional (Z-90-044)

Proposed Zoning Designation: C-1 with change of condition

Comprehensive Land Use Map Designation: Medlock Bridge Corridor

Planner: Kang Chen Date: 9/26/18

REZONING/SUP/CHANGE IN CONDITIONS APPLICATION

APPLICANT INFORMATION	OWNER INFORMATION
NAME: <u>RaceTrac Petroleum, Inc.</u>	NAME: <u>Medlock Associates, LP</u>
ADDRESS: <u>376 Powder Springs St., Ste. 100</u>	ADDRESS: <u>525 Pharr Road</u>
CITY: <u>Marietta</u>	CITY: <u>Atlanta</u>
STATE: <u>Georgia</u> ZIP: <u>30064</u>	STATE: <u>Georgia</u> ZIP: <u>30305</u>
PHONE: <u>770.422.7016</u>	PHONE: _____
CONTACT PERSON: <u>Parks F. Huff, Esq.</u> PHONE: <u>770.422.7016</u>	
CONTACT'S E-MAIL: <u>phuff@slhb-law.com</u>	

APPLICANT IS THE:
<input type="checkbox"/> OWNER'S AGENT <input type="checkbox"/> PROPERTY OWNER <input checked="" type="checkbox"/> CONTRACT PURCHASER
PRESENT ZONING DISTRICTS(S): <u>C1</u> REQUESTED ZONING DISTRICT: <u>C1 with changes</u>
DISTRICT/SECTION: <u>1st</u> LAND LOT(S): <u>330 and 331</u> ACREAGE: <u>2.304</u>
ADDRESS OF PROPERTY: <u>5805 State Bridge Road</u>
PROPOSED DEVELOPMENT: <u>Redevelopment of a 20,000 sq. ft. retail building and to build a 5,400 sq. ft convenience store with fuel sales.</u>
CONCURRENT VARIANCES: <u>Sec. 12E.3.D8 - allow variable roof line in lieu of pitched roof.</u>

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units: _____	No. of Buildings/Lots: <u>1</u>
Dwelling Unit Size (Sq. Ft.): _____	Total Building Sq. Ft. <u>5,411 sq. ft.</u>
Density: _____	Density: <u>2,400 sq. ft. per acre</u>



APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW STATES UNDER OATH THAT THEY ARE AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE CITY COUNCIL.



Signature of Applicant

9/26/18

Date

Billy Milam President

Type or Print Name and Title



Signature of Notary Public

9/26/2018

Date



PROPERTY OWNER'S CERTIFICATION

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Johns Creek, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning, Use Permit, & Concurrent Variance in request of the items indicated below.

I, Medlock Associates, LP, authorize, RaceTrac Petroleum, Inc.,
(Property Owner) (Applicant)

to file for variance and Site Plan modification at 5805 State Bridge Road
(RZ, SUP, CV) (Address)

on this date Oct., 1, 2018
(Month) (Day)

- I understand that no application or reapplication affecting the same land shall be acted upon within 12 months from the date of last action by the City Council.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Johns Creek Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange sign permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

Julian S Betts Jr. 10/1/2018
Signature of Property Owner Date

Medlock Associates, LP, By: Julian S Betts, Jr. Its: RaceTrac Petroleum, Inc., G.P.
Type or Print Name and Title

Beth Boylen 10/1/18 Beth Boylen
Signature of Notary Public Date Notary Seal
NOTARY PUBLIC
DeKalb County, GEORGIA
My Commission Expires 6-20-2020

Site Description

All that tract or parcel of land lying and being in Land Lots 330 and 331 of the First Land District, Fulton County, Georgia, and being more particularly described as follows:

To locate the Point of Beginning, commence at the intersection of the centerline of Medlock Bridge Road and State Bridge Road; thence North 84 Degrees 35 Minutes 15 Seconds East for a distance of 99.15 feet to a point; thence South 49 Degrees 40 Minutes 56 Seconds East for a distance of 681.48 feet on the northerly line of State Bridge Road which is the line parallel to and 71 feet northerly of the centerline of the road; thence North 40 Degrees 19 Minutes 04 Seconds East for a distance of 29.00 feet to a ½” rebar set; thence South 49 Degrees 40 Minutes 56 Seconds East for a distance of 35.00 feet to a ½” rebar set; thence South 40 Degrees 19 Minutes 04 Seconds West for a distance of 29.0 feet to a rebar set; thence South 49 Degrees 40 Minutes 56 Seconds East for a distance of 501.59 feet along the northerly right-of-way of State Bridge Road; thence along a curve to the right having a radius of 2362.83 feet and an arc length of 242.93 feet, being subtended by a chord of South 46 Degrees 44 Minutes 13 Seconds East for a distance of 242.82 feet along the northerly right-of-way line of State Bridge Road to The Point of Beginning; thence North 55 Degrees 15 Minutes 26 Seconds East for a distance of 323.55 feet to a point; thence South 34 Degrees 44 Minutes 34 Seconds East for a distance of 330.00 feet to a point; thence South 55 Degrees 15 Minutes 26 Seconds West for a distance of 268.28 feet to a point; thence North 79 Degrees 43 Minutes 56 Seconds West for a distance of 37.99 feet to a ½” rebar set on the northerly right-of-way line of State Bridge Road, said rebar being located 71 feet from the centerline of said road; thence along a curve to the left having a radius of 2362.83 feet and an arc length of 304.67 feet, being subtended by a chord of North 40 Degrees 05 Minutes 51 Seconds West for a distance of 304.46 feet along the northerly right-of-way line of State Bridge Road to The Point of Beginning, containing 2.304 acres.

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DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE: **YES** (if YES, complete points 1 through 4); **NO** (if NO, complete only point 4)

1. **CIRCLE ONE:** **Party to Petition** (if party to petition, complete sections 2, 3 and 4 below)
 In Opposition to Petition (if in opposition, proceed to sections 3 and 4 below)


2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

- | | |
|--------------------------------|----|
| 1. Medlock Associates, LP | 5. |
| 2. | 6. |
| 3. | 7. |
| 4. | 8. |

3. CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more
N/A	N/A	N/A	
			<div style="border: 1px solid black; padding: 10px; background-color: #f0f0f0;"> <p style="color: red; font-weight: bold; margin: 0;">RECEIVED</p> <p style="color: red; font-weight: bold; margin: 0;">OCT 02 2018</p> <p style="color: red; font-size: small; margin: 0;">City of Johns Creek Community Development</p> <p style="color: red; font-weight: bold; margin: 0;">RZ-19-003 VC-19-003-01</p> </div>

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Parks F. Huff
 Signature:  Date: 10-2-2018

PUBLIC PARTICIPATION PLAN

1. The City of Johns Creek will notify all property owners within a quarter mile of the site. What other groups do you intend to contact?

The applicant will communicate with the JCCA board to inform them of the project and receive their feedback. The applicant will contact the HOA of St. Ives Country Club and other groups as recommended by the city and JCCA.

2. How do plan to contact any interested parties, either before making application or after the city Public Participation Meeting, regarding the rezoning/use permit application?

The applicant will contact interested groups via email or phone calls. The interested groups have active websites making communication easier.

3. In addition to the City of Johns Creek Public Participation Meeting, do you plan to provide any other opportunities for discussion with interested parties before the PC and M&CC hearings?

The applicant will make themselves available to inform the community of the proposed development. The applicant requests that the city forward any citizen concerns to them so that meetings can be scheduled to address concerns and questions.

4. What is your schedule for completing the Public Participation Plan?

The applicant proposes to complete the plan prior to the Public Participation Meeting with follow up meetings afterwards.

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TO THE MAYOR AND CITY COUNCIL
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CONSTITUTIONAL CHALLENGE

COMES NOW, RACETRAC PETROLEUM INC., hereinafter referred to as the "Applicant", and asserts the following, to wit:

1.

By application to which this exhibit relates, Applicant has applied for a modification of a site plan and an architectural variance for certain real property lying and being in the City of Johns Creek, Fulton County, Georgia, a more particular description and delineation of the subject property, hereinafter referred to as the "Property", being set forth in said Application.

2.

The Application for Zoning of the property seeks a rezoning from the existing category of C-1 subject to a site plan to a revised site plan and also seeks to allow for a variable roof line on a building less than 10,000 square feet in lieu of a sloped roof.

3.

The current C-1 zoning classification subject to a specific site plan and without the architectural variance are unconstitutional in that they deprive the Applicant under and pursuant to Article 1, Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. This deprivation of property without due process violates constitutional prohibitions against the taking of private property without just compensation.

SAMS, LARKIN, HUFF
& BALLI, LLP

A LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS ST.
MARIETTA, GA 30064
770.422.7016

4.

Limiting the C-1 classification to a specific site plan violates the Applicant's right to the unfettered use of the property in that the existing zoning limitation does not bear any relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said architectural requirement for a sloped roof is arbitrary and unreasonable, resulting in no gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.

5.

The City of Johns Creek Zoning Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with zoning applications may also violate the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand and may be controlled by considerations and issues rather than the facts and considerations required by law.

Respectfully submitted, this the 2 day of October, 2018.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 
PARKS F. HUFF
Attorney for Applicant
Ga. Bar No. 375010