

**PROJECT NAME**  
Gas Station

<b>PROPERTY INFORMATION</b>	
<b>ADDRESS</b>	3105 Bethany Bend
<b>DISTRICT, LAND LOT</b>	2/2 831
<b>OVERLAY DISTRICT</b>	State Route 9
<b>EXISTING ZONING</b>	C-1 (Community Business), AG-1 (Agricultural)
<b>PROPOSED ZONING</b>	C-1 (Community Business)
<b>ACRES</b>	0.871
<b>EXISTING USE</b>	Undeveloped
<b>PROPOSED USE</b>	Gas Station and Convenience Store

**OWNER ADDRESS** D Squared Development LLC, Mehdi Jannatkah  
2489 Dallas Hwy  
Marietta, GA 30064

**PETITIONER/REPRESENTATIVE PHONE** Nathan V. Hendricks III  
404-255-5161

**INTENT**

To rezone from AG-1 (Agricultural) and C-1 (Community Business) to C-1 (Community Business) to develop a 2,100 square foot building with 4 pump islands at a density of 2,411 square feet per acre. \*

**COMMUNITY DEVELOPMENT RECOMMENDATION – FEBRUARY 23, 2010**

**RZ10-01 - DENIAL**  
**VC10-01 – DENIAL**

**PLANNING COMMISSION RECOMMENDATION – FEBRUARY 23, 2010**

**RZ10-01 – DENIAL 6-0**

**VC10-01- DENIAL 6-0**

After hearing many public concerns in the areas of traffic generation, public loitering, availability of similar uses in the area, alcohol sales, and pedestrian accessibility, the Planning Commission discussion included the following issues:

- 1) Number of times a week is fuel delivered per week: The applicant stated that it would be 2 to 3 times a week during the slow times of the day.
- 2) Number of employees per shift: The applicant stated 2 to 3 with a total of 8-10 employees total.
- 3) Potential congestion conflicts onsite: Trash emptying and deliveries will be tight according to the applicant's engineer.
- 4) The need for the 5<sup>th</sup> pump: The applicant stated that it was increased economic benefit.
- 5) Is it possible to design the site without the concurrent variance: The applicant stated that they would consider eliminating the 5<sup>th</sup> pump and submit a revised site plan but it may not be viable to build.
- 6) Some of the Commissioners expressed that although eventually the parcel maybe rezoned to commercial, the proposed use is too intensive for the size and shape of the property.

Since the time of the Planning Commission meeting, the applicant has submitted to the Community Development Department a revised site plan dated February 26, 2010. The revised site plan indicates a 20 foot landscape strip along Bethany Bend and an official revised letter of intent to request withdrawal of VC10-01 for the landscape strip. In addition, the site plan shows a reduction in the size of the building from 2,400 square feet to 2,000 square feet and a reduction of pumps from five (5) to four (4) pumps. Development per the revised site plan would eliminate the need for any variances.

**MAYOR AND CITY COUNCIL MEETING – MARCH 15, 2010**

**RZ10-01 – DEFERRAL TO MAY 17, 2010 7-0**

**VC10-01- DEFERRAL TO MAY 17, 2010 7-0**

**The Mayor and City Council voted to defer the item to the May 17, 2010 meeting to allow Staff to evaluate the revised site plan, the Design Review Board to make comments and the Planning Commission to make their recommendation of the revised site plan on April 27, 2010.**

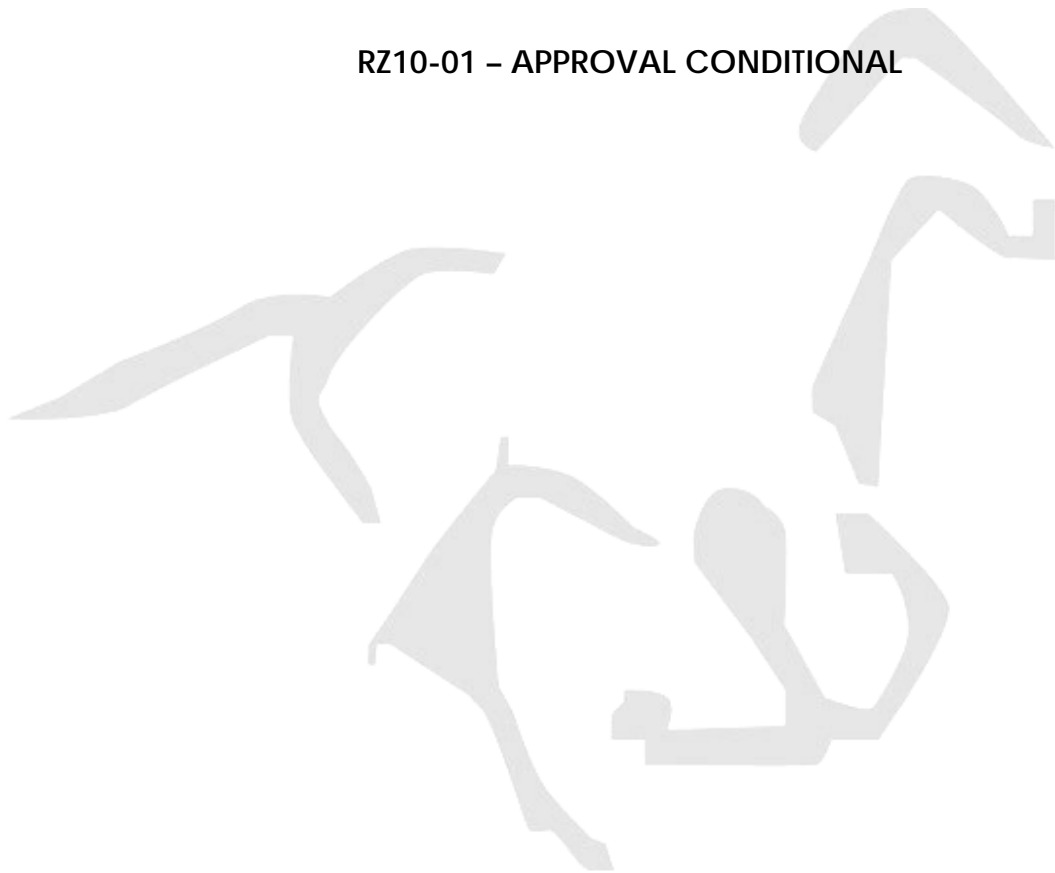
Prepared by the Community Development Department for the  
Planning Commission Meeting on April 27, 2010

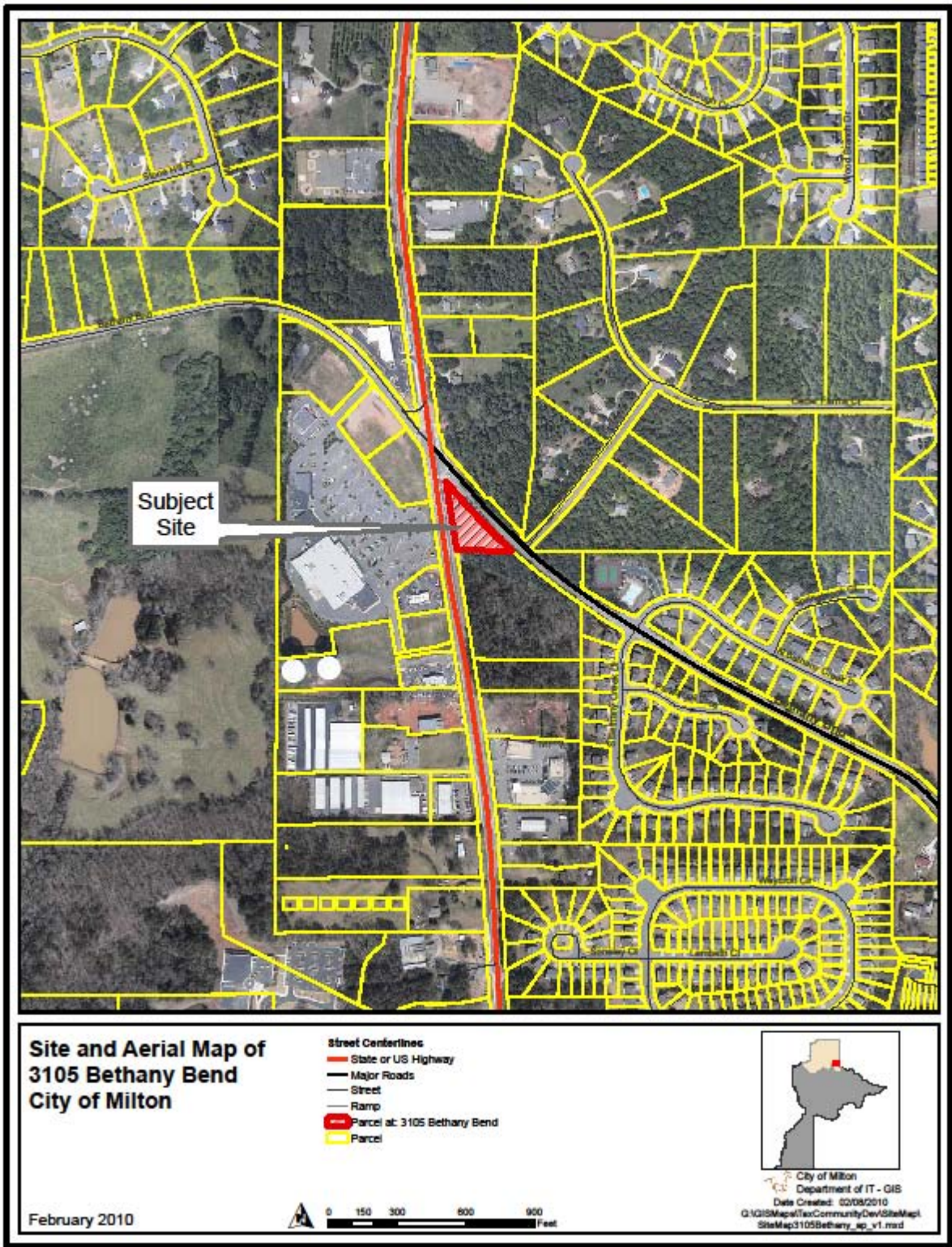
\*Based on a revised site plan submitted April 20, 2010.

After the Mayor and City Council meeting on March 15, 2010 the applicant submitted another revised site plan on April 20, 2010 based on meetings with Community Development, Public Works and the Fire Chief. The revised site plan indicates a 2,100 square foot convenience store and four gas pumps. A concurrent variance to reduce the landscape strip is no longer needed. Included in the Staff report is a preliminary colored rendering of the building and canopy that was presented to the Design Review Board on April 13, 2010.

**COMMUNITY DEVELOPMENT RECOMMENDATION – APRIL 27, 2010**

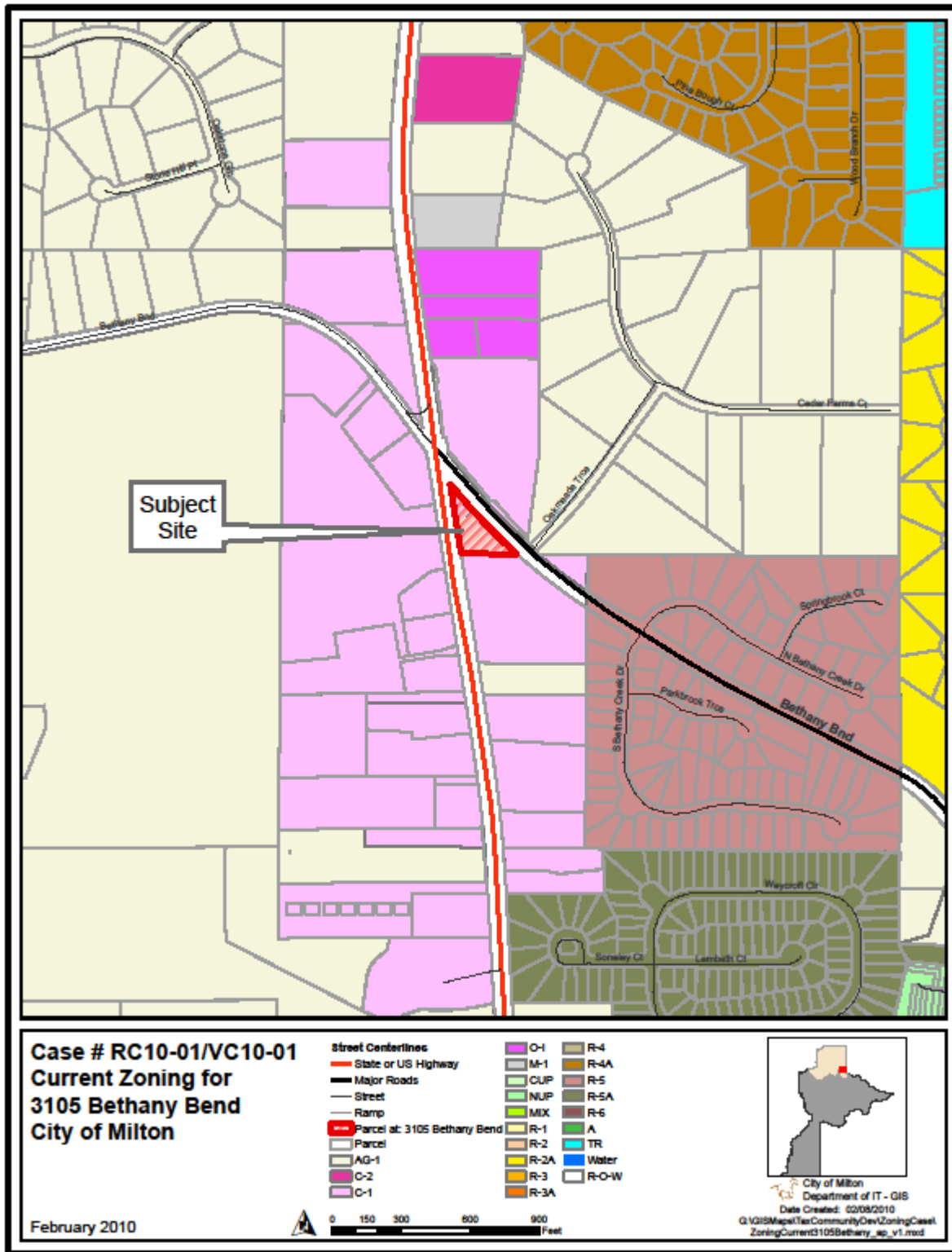
**RZ10-01 – APPROVAL CONDITIONAL**





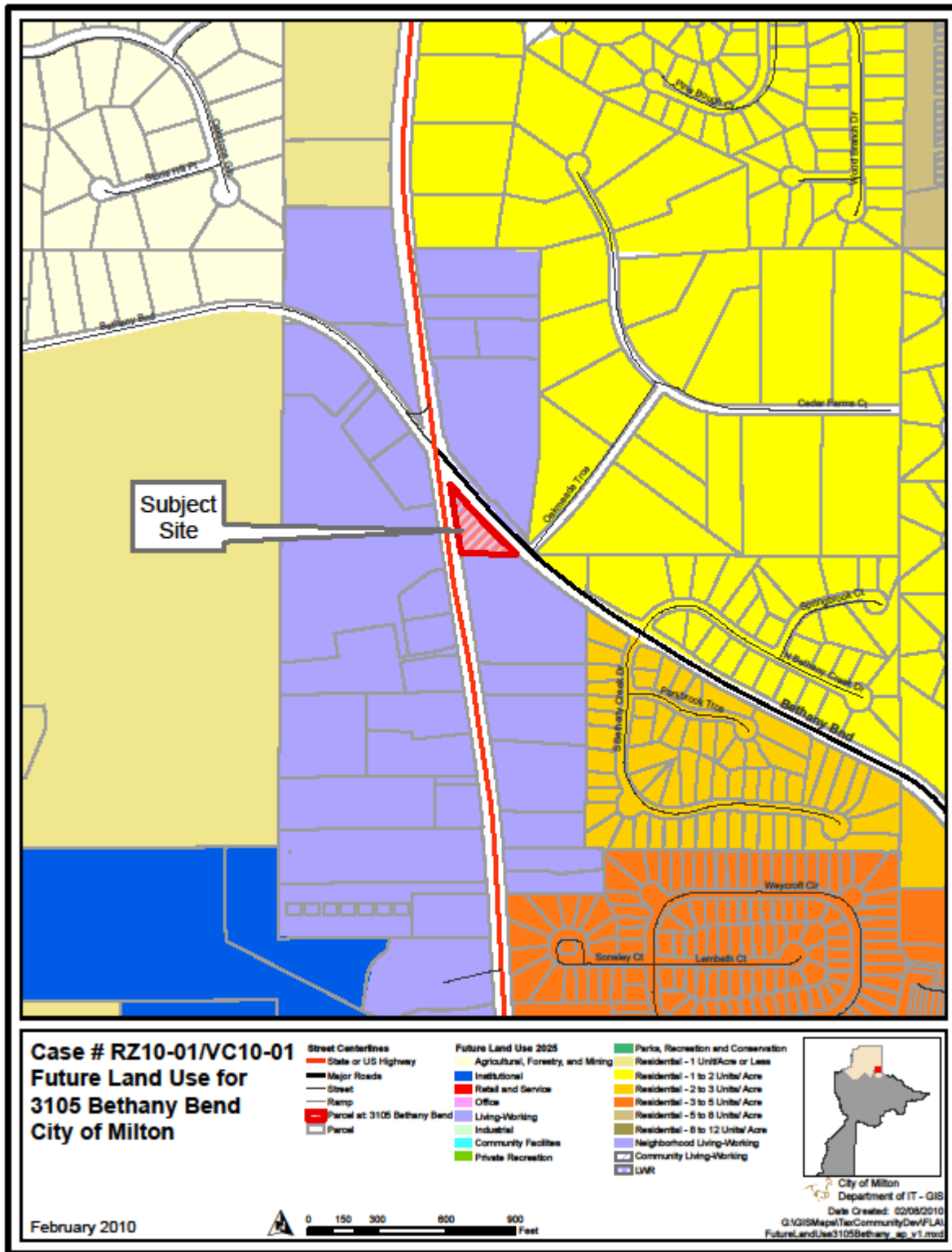
**LOCATION MAP**

Prepared by the Community Development Department for the  
Planning Commission Meeting on April 27, 2010  
\*Based on a revised site plan submitted April 20, 2010.



**CURRENT ZONING MAP**

Prepared by the Community Development Department for the  
 Planning Commission Meeting on April 27, 2010  
 \*Based on a revised site plan submitted April 20, 2010.



**FUTURE LAND USE PLAN MAP**

Prepared by the Community Development Department for the  
 Planning Commission Meeting on April 27, 2010  
 \*Based on a revised site plan submitted April 20, 2010.



RZ10-01

RECEIVED

APR 19 2010  
City of Milton  
Community Development

1 FRONT ELEVATION  
SCALE: 1/8"=1'-0"

2 REAR ELEVATION  
SCALE: 1/8"=1'-0"

3 LEFT SIDE ELEVATION  
SCALE: 1/8"=1'-0"

4 RIGHT SIDE ELEVATION  
SCALE: 1/8"=1'-0"

5 FUELING CANOPY  
SCALE: 1/8"=1'-0"

6 FUELING CANOPY  
SCALE: 1/8"=1'-0"

7 KEY PLAN  
SCALE: NTS

A NEW CONVENIENCE STORE  
for:  
Milton, Georgia  
Bethany Bend Road  
D Squared Development, LLC

PRELIMINARY  
EXTERIOR  
ELEVATIONS

DATE: 04-17-10  
10:11:0

A-1

RENDERING SUBMITTED APRIL 19, 2010

Prepared by the Community Development Department for the Planning Commission Meeting on April 27, 2010  
\*Based on a revised site plan submitted April 20, 2010.



**SUBJECT SITE LOOKING SOUTHEAST ON BETHANY BEND**



**SUBJECT SITE LOOKING NORTH ON HWY 9**

Prepared by the Community Development Department for the  
Planning Commission Meeting on April 27, 2010  
\*Based on a revised site plan submitted April 20, 2010.

## **SUBJECT SITE:**

The subject site contains 0.871 acre and is undeveloped. It is currently zoned C-1 (Community Business) unconditional and AG-1 (Agricultural). It is located at the southeast corner of Bethany Bend and Hwy 9. The site is located within the Neighborhood Living-Working Land Use designation on the City's Future Land Use Map.

## **Standards of Review**

(Section 64-2104) Planning Staff shall, with respect to each zoning application, investigate and make a recommendation with respect to factors 1 through 7, below, as well as any other factors it may find relevant.

### **1. Whether or not the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby Property?**

The proposed gas pumps and 2,100 square foot convenience store is suitable based on other commercially zoned and developed sites in the area. Directly south of the proposed development is a parcel zoned C-1 (Community Business) pursuant to RZ85-194 at a density of 8,627 square feet per acre. Staff notes that the revised site plan shows future inter-parcel access when the parcel to the south is developed. In addition, there are commercial uses developed to the north, northwest, west and southwest of the subject site ranging in densities from 1,341 sq. ft./acre to 18,240 sq. ft./acre. Staff notes that although there are residentially developed parcels nearby to the east and northeast, they are not adjacent to the subject site and the required landscape strips and additional buffering required for gas pumps will provide additional screening.

### **2. Whether or not the proposal will adversely affect the existing use or usability of adjacent or nearby property?**

In Staff's opinion, the proposed 2,100 square foot convenience store and four gas pumps will not adversely affect the existing use or usability of adjacent or nearby property if it is developed with the required development standards of the Highway 9 Overlay District which includes but are not limited to site lighting, architectural design of the building and canopy. In addition, the applicant has indicated compliance with transportation requirements such as deceleration lanes, turn lanes and required right-of-way dedication.

**3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned?**

The subject site does not have a reasonable use currently zoned primarily AG-1 (Agricultural) with a small piece of C-1 (Community Business).

**4. Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?**

Staff does not anticipate a significant impact on public services and utilities as proposed. However the transient commercial use proposed for this development may exacerbate a difficult intersection. The applicant will provide the required transportation improvements as shown on the revised site plan.

**5. Whether the proposal is in conformity with the policies and intent of the land use plan?**

The subject site is a prominent corner of the City and is designated in the Plan as Neighborhood Living-Working. The revised site plan provides a more pedestrian friendly area based on the location of the sidewalks and beauty strips along both frontages between the curb and the sidewalk as well as the bike lane on Hwy 9. A brief description of the project is noted below.

**Future Land Use Plan Map: Neighborhood Living-Working**

**Proposed use/density:**

Retail/Commercial – 2,411 square feet per acre

The Future Land Use Plan Map suggests Neighborhood Living-Working for the subject site and the properties to the west, north, and south in a linear fashion. Retail commercial is consistent with Neighborhood Living-Working when developed near residential areas. The Plan Map suggests Residential 3-5 units per acre to the east and further northeast and to the northeast across Bethany Bend the Plan suggests Residential 1-2 units per acre.

The Milton City Council adopted the Partial Plan Update to the City's Comprehensive Plan on December 21, 2009. The proposed development

is consistent with the following Plan Policies if developed with the recommended conditions:

- We will encourage development that is sensitive to the overall setting of the community and will contribute to our community's character and sense of place.
- We will encourage development of a balanced network of commercial activity centers to meet the service needs of our citizens while avoiding unattractive and inefficient strip development.
- We will encourage new development to locate in suitable locations close to transportation and infrastructure resources in order to protect environmentally sensitive areas and valuable historic, archaeological or cultural resources from encroachment.
  - b. Support development projects that provide increased density close to Windward Parkway, GA 400, and SR 9 consistent with the land use and infrastructure development policies of the City of Milton and the citizen and stakeholder expectations.

In addition, the Milton Comprehensive Transportation Plan recommends that the Bethany Bend and Hwy 9 intersection be improved with adding an eastbound and westbound through lane along Bethany Bend which will help with congestion at this intersection in the future.

**6. Whether there are other existing or changed conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the proposal?**

Although the site is small in size and is located within an acute triangle, the revised site plan meets the development standards of the Hwy 9 Overlay District, and development requirements for the site. The intersection is transitioning in uses from AG-1 (Agricultural) and vacant properties to commercial uses in varying densities. Staff is of the opinion that these conditions support grounds for approval of the proposed gas station and convenience store.

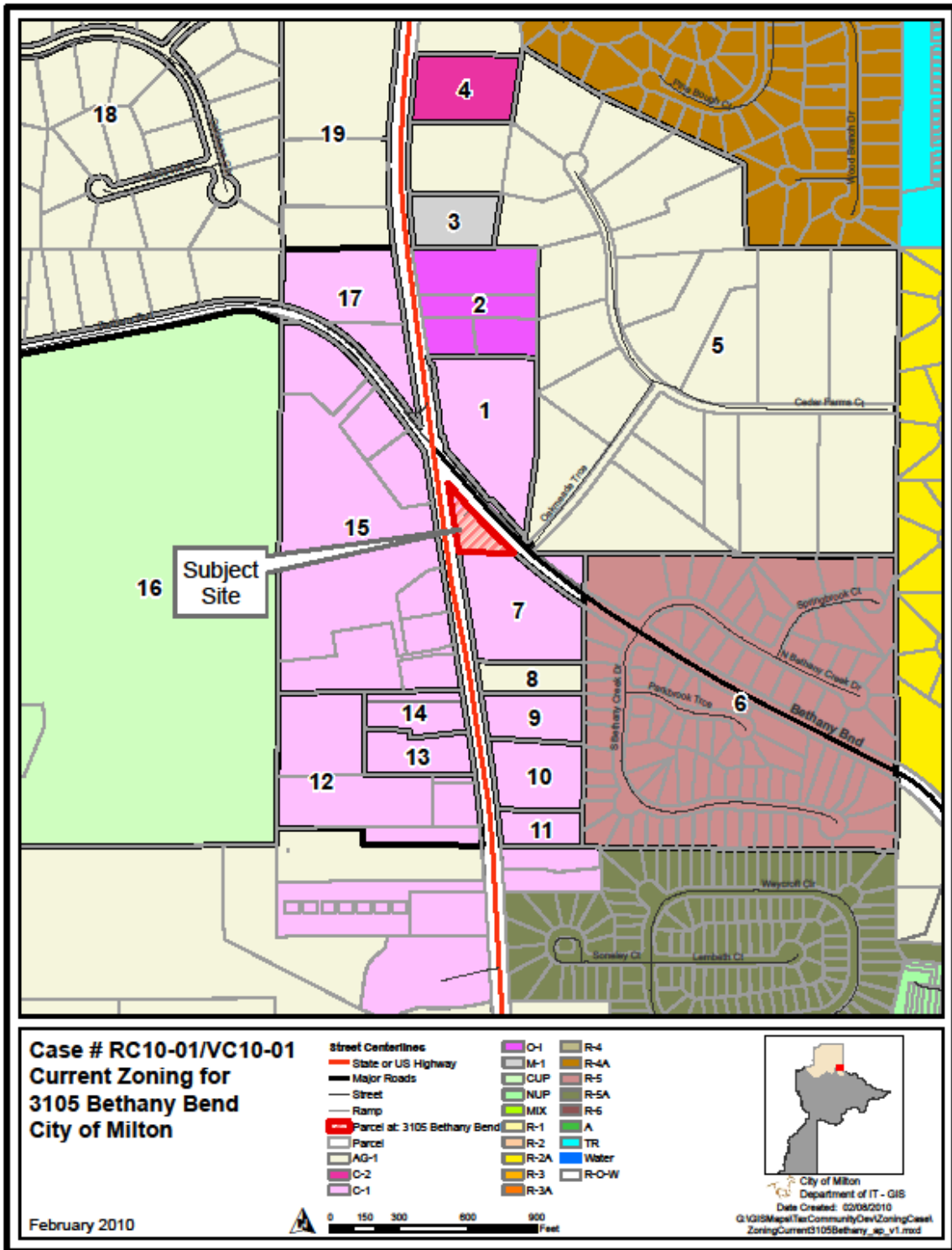
**7. Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of the City of Milton?**

The proposed use will not be environmentally adverse to the natural resources, environment and citizens of the City due to the required development regulations as it pertains to detention/retention, aesthetics, and underground gas tanks and gas pumps on the site.

### Existing uses and zoning of nearby property

Location	Parcel / Zoning Petition	Zoning / Name	Approved Density/Min. Heated Floor Area
North	<b>1</b> RZ06-96	C-1 (Community Business) CVS and Undeveloped Parcel No Fast Food Restaurants Permitted	5,690.91 sq. ft./acre
North	<b>2</b> RZ07-10	O-I (Office Institutional) Undeveloped	5,332 sq. ft./acre
Further North	<b>3</b> RZ88-100	M-1 (Light Industrial) Superior Air Conditioning	1,341 sq. ft./acre
Further North	<b>4</b> RZ88-23	C-2 (Commercial) GLM Sod and Landscape	8,040 sq.ft./acre
Further Northeast	<b>5</b> N/A	AG-1 (Agricultural) Bellemeade Farms Subdivision	1 unit/acre (Est. 3,000 sq.ft.)
Further Southeast	<b>6</b> RZ96-19	North side of Bethany Bend is R-4A (Residential) and South side of Bethany Bend is R-5 (Residential) Bethany Creek Subdivision	R-4A -1.76 units/acre R-5 - 2.97 units/acre
South	<b>7</b> RZ85-194	C-1 (Community Business) Undeveloped	8,627 sq.ft./acre
South	<b>8</b>	AG-1 (Agricultural) Undeveloped	N/A
Further South	<b>9</b> RZ01-08	C-1 (Community Business) Loving Hands Animal Clinic	8,695.66 sq.ft./acre 2 stories
Further South	<b>10</b> RZ97-54	C-1 (Community Business) Legacy Crossing Pavilion – Montana’s Restaurant	8,249 sq.ft./acre 2 stories
Further South	<b>11</b> RZ95-085	C-1 (Community Business) 9 North Tire Center	3,937 sq.ft./acre
Further Southwest	<b>12</b> RZ99-44/U99-26	C-1 (Community Business) and Use Permit for Self-Storage Your Extra Attic Self	18,240 sq.ft./acre

		Storage/Retail Commercial Strip	
Further Southwest	<b>13</b> RZ98-012	C-1 (Community Business) Office Building	6,282.05 sq.ft./acre
Southwest	<b>14</b> RZ03-118	C-1 (Community Business) Sherwin Williams Paint Store	6,323.53 sq.ft./acre
West	<b>15</b> RZ99-77	C-1 (Community Business) Bethany Bend Village Shopping Center	7,846.04 sq.ft./acre 2 Stories
Further West	<b>16</b> RZ05-115	CUP (Community Unit Plan) Future Site of Fulton County Board of Education High School	2.81 units/acre
Northwest	<b>17</b> RZ04-22	C-1 (Community Business) Existing Retail Center	7,314.03 sq. ft./acre
Further Northwest	<b>18</b> N/A	AG-1 (Agricultural) Oakstone Glen Subdivision	1 unit per acre
Further Northwest	<b>19</b> RZ00-52	C-1 (Community Business) Kids R Kids Day Care	4,771.25 sq.ft./acre



EXISTING USES LOCATION MAP

Prepared by the Community Development Department for the  
 Planning Commission Meeting on April 27, 2010  
 \*Based on a revised site plan submitted April 20, 2010.



**VIEW FROM SUBJECT SITE TO THE NORTHEAST ACROSS BETHANY BEND**



**VIEW FROM SUBJECT SITE TO THE WEST ACROSS HWY 9**

Prepared by the Community Development Department for the  
Planning Commission Meeting on April 27, 2010  
\*Based on a revised site plan submitted April 20, 2010.

## **SITE PLAN ANALYSIS**

Based on the applicant's revised site plan submitted to the Community Development Department on April 20, 2010, Staff offers the following considerations:

### **State Route 9 Overlay District**

#### **BUILDING SETBACKS**

Section 64.776 of the Zoning Ordinance requires the following building setbacks:

- Front – 40 feet along Hwy 9
- Front – 40 feet along Bethany Bend
- Rear – 0 Feet along the south property line adjacent to C-1 (Community Business)

The site plan indicates compliance with the setback requirements.

Staff notes that Section 64-77.2.a. addresses permitted encroachments into yards. Nonresidential districts – “Canopies shall be allowed over walkways or driveways to within 12 feet of the street right-of-way or right-of-way based on the street's functional classification, whichever is farther from the street's centerline. Fuel pumps and pump islands, when permitted, shall be setback as stated in this subsection for canopies.” The proposed canopy is located 20 feet from the proposed right-of-way along Highway 9 and Bethany Bend and is in compliance with the required setback.

#### **BUILDING HEIGHT**

Section 64-1095(n) within the State Route 9 Overlay District requires there shall be a maximum of two stories with a maximum height of 30 feet from average finished grade to bottom of the roof eave. The applicant indicates that the proposed building will be one story in height and will not exceed the maximum height.

#### **LANDSCAPE STRIPS**

Section 64-1090 of the State Route 9 Overlay District requires the following landscape strips:

- Hwy 9 – 20 foot landscape strip

- Bethany Bend- 20 foot landscape strip
- South property line – 10 foot landscape strip

This section further states that for every thirty (30) linear feet of landscape strip, a minimum of one 3" caliper hardwood shade tree is required to be planted in the center of the landscape strip or as approved by the Director. The revised site plan indicates compliance with the landscape strip requirements.

Section 64-1092 states that where a parking lot, parking structure or gas fueling bay fronts directly on a public street, a continuous screen of evergreen plantings shall be provided. Said screen shall be three feet in height at planting and four (4) feet minimum height at maturity and three (3) feet to eight (8) feet in width at maturity. This requirement shall be provided along Hwy 9 and Bethany Bend Road based on the location of the fueling bays and parking on the site. It appears that the site can accommodate this requirement to screen the pumps.

The air and vacuum structures are located on the east side of the building outside of the landscape strip along the south property line.

#### OTHER SITE PLAN CONSIDERATIONS

The applicant has stated that the hours of operation will be from 5:30 a.m. to 12 midnight, Monday through Saturday and 7:00 a.m. to 11:00 pm. on Sundays and plans to sell beer and wine on the premises. A total of 2 to 3 employees per shift will be working on site. The applicant anticipates 2 to 3 loads of fuel per week which will be delivered during off peak times. The underground tank is located just north of the parking spaces adjacent to the building. This location must be approved by the State Fire Marshal.

Staff notes that the dumpster is located adjacent to Hwy 9. Section 64-1092 (d) states that receptacles shall be placed in the least visible location from public streets. Staff notes that the dumpster should be enclosed in such a way as to shield it from the street with acceptable architectural and landscaping materials. It is currently located away from residential areas and toward the commercially developed corridor. In addition the ordinance requires the fourth side shall be a self closing gate made from noncombustible materials. The revised site plan and associated renderings indicate compliance with the requirement of the ordinance. The dumpster is now within a structure that appears to be a part of the main structure.

The Overlay District also requires a bicycle rack for the site. The site plan does not indicate one but the applicant has stated that it will be provided.

Section 64-1095 (d) states that all buildings shall be oriented to face a street or courtyard. Based on the fact that there are two frontages, this requirement can't be met. The applicant submitted revised architectural renderings to the Community Development on April 19, 2010 which shows the building to have 360 degree architectural treatment.

The applicant indicates a four board black horse fence along both Bethany Bend and Hwy 9 at the edge of the sidewalk. The City Arborist requests that the fence be placed interior to the landscape strip to provide a more open feel. In addition, all sidewalks shall have a color stamped pattern to simulate a transverse double row brick paver pattern every 50 feet, to be approved by the City of Milton Design Review Board. These two requirements have been the policy of the Mayor and City Council in the State Route 9 Overlay District and will be included in the Recommended Conditions.

Detention areas are located underground on the subject site.

Both the building and the site must comply with Section 64-1068, State Route 9 Overlay District, at the time of the Certificate of Occupancy. Staff notes that the lighting requirements are more restrictive than the Night Sky Ordinance and therefore, the more restrictive requirements will prevail. The applicant has stated that recessed lighting will be installed in the canopy and that all site lighting will meet or exceed the Hwy 9 Overlay District requirements.

PARKING REQUIREMENTS

The following chart illustrates the parking required by Section 64-1410 for the proposed use:

Proposed Use	Minimum Requirement	Spaces Provided
<ul style="list-style-type: none"> <li>• Retail Service Commercial 2,100 square feet*</li> </ul>	<ul style="list-style-type: none"> <li>• 5 spaces per 1,000 sq. ft. of building area</li> </ul> <p style="text-align: center;"><b>11 spaces</b></p>	<p style="text-align: center;"><b>11 spaces</b></p>

It also appears that the site plan is in compliance with the landscape and layout requirements of Section 64-1096.

ENVIRONMENTAL SITE ANALYSIS

The Environmental Site Analysis (ESA) report is sufficient and satisfies the requirement of Section 64.2126. A field survey of the site was conducted by Staff to verify areas addressed in the ESA report. The proposed site does not contain wetlands, floodplains, streams, steep slopes, historical sites or sensitive plant and animal species. The City Arborist has determined that one oak, approximately 34" DBH (Diameter Breast Height) is in severe decline and is located on the site.

It is Staff's opinion that the proposed development provides open space as provided by the 20 foot landscape strip adjacent to Hwy 9, Bethany Bend and the south property line totaling 17,768 square feet or 0.408 acre which is approximately 47 percent of the total acreage (does include future right-of-way dedication). Based on the compliance with the development regulations, there will be minimal impact on adjacent and nearby properties from noise and lighting.

#### ARBORIST COMMENTS

Site is heavily wooded with 95% young growth pines. No specimen quality trees on site. One oak, around 34" is in severe state of decline...has been pruned heavily over the years for utility clearing, and has significant decay about 15' up where tree has lost a major branch. There is no tree area worth preserving, per this plan.

1. Landscape Strip along Hwy 9....*no issues with L.S. however plan states fence to be located at edge of sidewalk. Would rather see fence located at the back of the landscape strip, would provide a more open look along the road.*
2. Landscape strip along Bethany....*same issue as above in regard to fence location.*
3. *Provide additional screening above and beyond landscape strip requirements.*
4. Parking Bay/Island Trees.....*3 required*

#### FULTON COUNTY HEALTH DEPARTMENT

The Fulton County Department of Health and Wellness recommends that the applicant be required to connect the proposed development to public water and public sanitary sewer available to the site.

Since the proposed development constitutes a premise where people work, live or congregate, onsite sanitary facilities will be mandatory, prior to use or occupancy.

This facility must comply with the Georgia Smoke free Air Act of 2005.

This department is requiring that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse containers be submitted for review and approval prior to land disturbance or building permit issuance.

#### CITY OF MILTON FIRE MARSHAL

- Underground storage tanks will require separate approval from the State Fire Marshal.
- A fire flow report will be required.

The Fire Department met with the applicant and it was determined that one opening in the four board equestrian fencing shall be provided along both Hwy 9 and Bethany Bend for access by the Fire Department. The applicant has stated that a new fire hydrant will be installed along Bethany Bend Road as required by the Fire Department. In addition, the necessary number of FDCs (Fire Department Connection) will be installed along Hwy 9. Staff will reflect these requirements in the Recommended Conditions.

#### PUBLIC INVOLVEMENT

On January 27, 2010 the applicant was present at the Community Zoning Information Meeting (CZIM) held at the Milton City Hall. There were 14 members of the community in attendance. The applicant has also met with the Bethany Creek Homeowners Association prior to the CZIM.

Public Comments – Staff has several e-mails regarding this development. They are attached to this report.

#### PUBLIC PARTICIPATION REPORT

The applicant hosted a Public Participation Meeting on Friday, February 13, 2010 at the Windward Kroger Community Room. There were six citizens in attendance. The public expressed the following:

- Concern over truck turning movements in and out of the property as well as within the property.
- Discussion of the concurrent variance. (Since that time, the concurrent variance has been eliminated.)
- Use of the property as a gas station.

- Concern over the lighting to be used on the property and a request that a tree line or some sort of visual buffer planted along Bethany Bend to block any light spillage.
- Concern over the security of children in neighboring residential areas.

Staff notes that in addition to the CZIM and Public Participation meeting, the applicant attended the Bethany Creek Homeowners Association's Annual Meeting on January 21, 2010.

#### CITY OF MILTON DESIGN REVIEW BOARD COURTESY REVIEW - FEBRUARY 2, 2010

- Screening dumpster. Applicant states that he will extend the brick façade wall to 8' around the dumpster so it will parallel Highway 9.
- Roof canopy over pump islands should be pitched. Applicant states that might be difficult with a non symmetrical canopy.
- Did you consider an alternate design? Applicant states that the canopy does not have to adhere to building setback, but the building does. The canopy would not fit into the setbacks.

#### CITY OF MILTON DESIGN REVIEW BOARD COURTESY REVIEW – APRIL 13, 2010\*

- 3 parking spaces on the north end don't function correctly for maneuverability.
- Sidewalk along Hwy 9 goes into the drive isle.
- Additional treatment of the dumpster. Height should be the same as the building and provide a garage-like door.
- Match canopy style to the building.
- Locate bicycle parking on the site.
- Relocate air and vacuum
- Provide the required 25% fenestration
- Applicant addressed issue of the DRB from the last meeting and the traffic flow has improved.

#### CONCLUSION

The proposed gas station and associated gas pumps are consistent with Plan Policies. Although the site is small and located within an acute triangle with two road frontages, the revised site plan submitted on April 20, 2010 meets the development standards required by the City of Milton Zoning Ordinance which ameliorates potential negative impacts on nearby residential uses. Therefore, Staff recommends **APPROVAL CONDITIONAL of RZ10-01** to rezone to C-1 (Community Business) to develop a gas station and convenience store. If the

Mayor and City Council recommends approval, Staff provides the following Recommended Conditions.



## RECOMMENDED CONDITIONS

If this petition is approved by the Mayor and City Council, it should be APPROVED C-1 (Community Business) CONDITIONAL subject to the owner's agreement to the following enumerated conditions. Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Mayor and City Council.

- 1) To the owner's agreement to restrict the use of the subject property as follows:
  - a) Retail Commercial and accessory uses, at a maximum density of 2,411 gross floor area per acre zoned or a total gross floor area of 2,100 square feet and a total of 4 gasoline pumps, whichever is less but excluding freestanding fast food restaurants, commercial amusements (cinemas not included), liquor sales package stores (wine stores allowed), (restaurants may sell liquor by the drink), motels, hotels, adult entertainment establishments including adult bookstores, adult entertainment as defined in Section 64-1, check cashing stores, pawn shops, coin operated laundries, video arcades (video machines that are incidental to otherwise permitted businesses are allowed), pool halls, massage parlors, nail salons, stand alone beauty salons, stand alone barber shops, flea markets, discount retail shops, roadside vending, roadside produce stands or seasonal vending.
- 2) To the owner's agreement to abide by the following:
  - a) To the revised site plan received by the Community Development Department on April 20, 2010. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance, all other applicable city ordinances 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 the first Certificate of Occupancy.
- 3) To the owner's agreement to the following site development considerations:
  - a) All new sidewalk installations along the rights-of-ways shall have a color stamped pattern to simulate a transverse double row brick paver

pattern every 50 feet, to be approved by the City of Milton Design Review Board.

- b) Provide a black four-board-equestrian-styled fence along all sidewalks interior to the landscape strip or as approved by the Director of Community Development.
  - c) Provide a new fire hydrant along Bethany Bend as approved by the Fire Marshal.
  - d) Provide additional Fire Department Connection(s) along Hwy 9 as required by the Fire Marshal.
- 4) To the owner's agreement to abide by the following requirements, dedication, and improvements:
- a) Dedicate at no cost to the City of Milton or Georgia Department of Transportation (GDOT) prior to the approval of a Certificate of Occupancy, sufficient land as necessary to provide the following:
    - i. Provide at least 30 feet of right-of-way from the centerline of Bethany Bend
    - ii. Provide at least 12 feet of right-of-way from the back of curb of all abutting road improvements, along the entire property frontage, as well as allow the necessary construction easements while right-of-way is being improved.
    - iii. Provide bicycle and pedestrian improvements along entire property frontage of HWY 9 and Bethany Bend according to cross sections in Chapter 48 Streets, Sidewalks and Other Public Places of the City of Milton Code of Ordinances and as approved by Milton Public Works.
    - iv. Installation/modification of the following transportation infrastructure according to GDOT Standards and Chapter 48 Streets, Sidewalks and Other Public Places of the City of Milton Code of Ordinances :
      - a) NB Right Turn Lane on HWY 9 at new access drive
      - b) NB Right Turn Lane on HWY 9 at Bethany Bend
      - c) EB Right Turn Lane on Bethany Bend at new access drive

- b) Reserve for the City of Milton along the necessary property frontage of the following roadways, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide for compliance with the Comprehensive Transportation Plan. The location of the landscape strip with the reserved right-of-way to be determined by the Director of Community Development.
  - i. 55 feet from centerline of HWY 9 or as may be required by GDOT
  - ii. 45 feet from centerline of Bethany Bend
  
- a) Access to the site shall be subject to the approval of the GDOT District 7 Access Management Engineer and Milton Public Works, prior to the issuance of a Land Disturbance Permit.
  
- b) Provide a 30 foot wide cross-access easement free of any structures or utilities for future vehicular and pedestrian inter-parcel access on the south property line as approved by Milton Public Works.

**Robyn MacDonald**

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**From:** Michel Amjadi [michel\_amjadi@yahoo.com]  
**Sent:** Wednesday, February 10, 2010 6:22 PM  
**To:** Alan Tart; Bill Lusk; Burt Hewitt; Julie ZahnerBailey; Karen Thurman; Joe Longoria  
**Cc:** Robyn MacDonald; Angela Rambeau; info@bethanycreek.net; Jones1125@comcast.net; rachel.m.howard@hotmail.com; iversen\_gitte@yahoo.com  
**Subject:** Case# RZ10-01/VC10-01: Gas Station adjust to residential areas in Bethany Bend

**Dear Milton City Council member,**

It has been an honor to visit you in several Milton city hall community meetings where one of the promised high priority items was setting standards for Milton's future developments.

I want to inform you of our frustration having found out for the plan for construction of a gas station adjust to several residential subdivisions.

We beseech you, the council, who have families of your own to empathize with us on this issue and to prevent construction of this gas station.

It's one thing for there to be stores, hair salons and coffee shops in the area; these businesses can build a sense of community by way of providing gathering points and in moderation a convenience.

These can add to our quality of life.

A gas station on the other hand is something that bring uncontrolled traffic, encourage loitering, noise, pollution, Sale of Alcoholic items, toxins, improper lighting for a residential area, malodorous smells and more, in an area that at one point encouraged families to set roots down.

My family and I love living in Milton.

Please ask yourselves if you would want your children exposed to what a gas station would bring to near your home.

If Milton wanted gas stations in a residential area, there should have been a disclaimer before allowing a single person to move in.

There are other locations for gas stations that would in no way diminish the quality of life for a group of residents.

We leave the decision in your hands and hope you support us by rejecting the application with case RZ10-01/VC10-01 set for meeting on Feb 23.

I appreciate your time, consideration and support.

Best regards,  
Michel Amjadi  
720 Springbrook Ct  
Milton, GA 30004  
770.753.3230

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**Robyn MacDonald**

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**From:** Angela Rambeau  
**Sent:** Tuesday, February 02, 2010 2:53 PM  
**To:** Robyn MacDonald  
**Subject:** FW: Proposed Gas Station  
**Attachments:** DRB Letter.doc

#3

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**From:** Adkins, Lauren [mailto:AdkinsL@fullonschools.org]  
**Sent:** Tuesday, February 02, 2010 1:59 PM  
**To:** Angela Rambeau  
**Subject:** Proposed Gas Station

Dear Angela,

As a homeowner less than 1 mile away from the site of this proposed gas station, I must voice my disgust with the new plan. I see no need to add another gas station in this area when there are 2 in proximity. I have attached a letter for your review, please include it in the record and forward to the members of the DRB for their review in consideration of case RZ10-01/VC10-01.

Thank you for your time and attention to this matter,  
*Mrs. Laurie Adkins*  
Third Grade Teacher  
Cogburn Woods Elementary  
AHS Lacrosse Coach  
adkinsl@fullonschools.org

*If you shoot for the moon and miss, you'll still be among the stars... Unknown*

February 2, 2010

Re: RZ10-01/VC10-01  
Courtesy Review by Design Review Board

Estate

Dear Members of Design Review Board,

My name is Charles G. Bethel and I reside at 1025 S. Bethany Creek Dr., Milton in the Bethany Creek subdivision, on the south side of the development, behind the property being considered for development. I would like to include the following comments into the public record and for your consideration as part of your review.

First let me state that I am a proponent of responsible development. I believe that quality and sustainable commercial development is a necessary part of any successful community.

The City of Milton has developed a set of ordinances and standards to provide a level of development that adds and maintains our City's character. For these ordinances and standards to be effective, they must be implemented and adhered to for developments in the City of Milton. This provides the framework to develop a site such that it reflects the unique characteristics of Milton.

Bethany Bend is a residential road lined by numerous residential single family neighborhoods. Directly across the street from the proposed development is the Belle Meade subdivision with 2 acre estates. Many residents use Bethany Bend as a venue for walking and jogging. Also, many residents walk to the business establishments at the intersection of Hwy 9 and Bethany Bend.

In your review, I am requesting that you require the applicant to adhere to the requirements of the State Route 9 Overlay Standards and the Highway 9 Design Standards with special attention to the following:

- This area is Pedestrian friendly as it is used for fitness walking and patronizing existing businesses in the area. Pedestrian circulation should be an integral part of the overall development of the site.
- Incorporate the elements of the CoM Access Management Plan for the Highway 9 area: proposed and existing driveways should align on Highway 9 and Bethany Bend.
- Inter-parcel connection is encouraged in the Hwy 9 corridor and should be taken into consideration in the site design of this project.
- Provide a 20-foot wide landscape strip on Hwy 9 and Bethany Bend.
- Minimize paving / maximize pervious pavement.

- Provide Sidewalks that are: 6' wide with 2'(min)- 5' (preferred) grass strip between sidewalk and back of curb.
- Provide 3 feet grass strip between equestrian fence and sidewalk
- One bike parking rack must be provided on each non-residential development site.
- The dumpster should have a vegetative screen between it and Hwy 9.
- The Detention Pond should be underground or designed to create a natural look.
- Can the pond be used to create an attractive site feature?
- Lights should be architecturally decorative with a historic style.
- Pedestrian Streetscape lighting should be provided on Hwy 9
- Signage should follow the sign ordinance
- Signage should be externally illuminated and downward facing
- How will the canopy of this gas station comply with the requirements for exterior materials? What will the developer do to make it fit in?
- Examples of exterior materials and colors should be provided for review and consideration in order to maintain the "look and feel" of other businesses in the area.
- Due to the prominence of the street intersection of Hwy 9 and Bethany Bend this intersection should be distinguished by special landscape treatments (i.e. trees and shrubs, flower beds) including the planting of an American Elm (Ulmus Americana) with the size and specific location to be determined by the City Arborist and an Architectural Element such as public art or statuary?

Thank you for your consideration,

Respectfully,

Charles and Leigh Bethel  
1025 South Bethany Creek Dr.  
Milton, GA. 30004  
Bethany Creek Subdivision

cc: CoM Zoning File



## **By-Laws of the City of Milton Planning Commission**

### Article I Establishment

Section 1: The Planning Commission is created per Chapter 2, Administration, Article 3, City Advisory Boards, Commissions and Authorities, of the City of Milton Code of Ordinances, and its membership has been appointed by the Mayor and City Council based on the composition and term requirements as required therein.

Section 2: As allowed by Chapter 2, Administration, Article 3, City Advisory Boards, Commissions and Authorities, of the City of Milton Code of Ordinances, the Commission hereby adopts the rules, procedures, and guidelines for the transaction of its business as referenced herein.

### Article II Purpose

Section 1: The Planning Commission is an advisory board which reports its findings and recommendations to the Mayor and City Council. The Planning Commission is charged with actively participating in the creation of Milton's Comprehensive Plan and thereafter proactively recommending changes to that Comprehensive Plan, as required to insure that it is consistent with the wants and needs of the residents and property owners of the City of Milton.

Section 2: The Planning Commission bases its decisions on compliance with the established policy of the Comprehensive Plan and other related Plans and through an investigation and recommendation with respect to the seven (7) factors listed below:

- A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
- B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
- C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
- D. Whether the zoning proposal will result in a use which will or could cause an excessive burdensome use of existing streets, transportation facilities, utilities, or schools;

- E. Whether the zoning proposal is in conformity with the policies and intent of the land use plan;
- F. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal; and
- G. Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of Milton.

Section 3: The Planning Commission will proactively evaluate and recommend changes to subdivision regulations, zoning ordinances and zoning maps as appropriate as well as the overall planning processes that are utilized in the City of Milton, consistent with the laws of the State of Georgia.

### Article III Election of Officers

Section 1: This Commission shall annually elect, yearly, a Chairperson and a Vice Chairperson from among its members. Such election shall take place at the first regularly scheduled Planning Commission meeting in each calendar year following the proper appointment and swearing in of all Planning Commission members.

Section 2: The Commission ~~deems that a chair shall~~ first elect a Chairperson~~be elected,~~ and then elect a Vice Chairperson, in each case by vote of a majority of the Commission's membership, and shall serve a term as per the Resolution. The Chairperson shall preside over the Commission and have the right to vote. In the absence or disability of the Chairperson, the Vice Chairperson shall perform the duties of the Chairperson.

Section 3: ~~In addition, the Commission deems it necessary to elect a Vice Chair, by a majority of the Commission's membership, who shall serve a term as per the Resolution. In the absence or disability of the Chair, the Vice Chair shall perform the duties of the Chair.~~ the event either the Chairperson or Vice Chairperson or both should be removed from office for cause or should resign prior to the next annual election, such vacated position(s) shall be filled in the manner set forth in Section 2 at the next regularly scheduled Planning Commission meeting following the appointment and swearing in of any Planning Commission members, as required.

### Article IV Member Duties

Section 1: Per Chapter 2, Administration, Article 3, City Advisory Boards, Commissions, and Authorities, of the City of Milton Code of Ordinances, Commission members must attend two-thirds (2/3) of the meetings in a calendar year. Failure to do so warrants removal from the Commission.

Section 2: Each Member shall share with all other Members and City staff any written material (including e-mails) received by that Member that is related to a matter before the Planning Commission.

Section 3: No Member shall (a) discuss with any applicant any matters pending before the Planning Commission; or (b) render any opinion with regard to a pending application, outside of public hearings or public meetings.

Section 4: Each Member shall recuse him/herself in the event of any conflict of interest with regard to a matter pending before the Planning Commission.

## Article V Meetings

Section 1: Regular meetings of the Commission shall be held on the fourth (4<sup>th</sup>) Thursday of each month at 7:00 p.m. at the City of Milton City Hall, located at 13000 Deerfield Parkway, Building 100, Council Chambers, Milton, Georgia 30004.

Section 2: Special Meetings of the Commission may be called by the Chair, provided public notices are posted as required by law and all members are notified.

Section 3: A quorum shall be present for a meeting of the Commission to begin. A majority of the members of the Commission (four (4) members) shall constitute a quorum.

Section 4: All meetings shall be open to the public. The staff is directed to draft an agenda for meetings based on the order of business as follows. The agenda shall be followed unless the Chair makes a motion to hear items on the agenda out of their assigned order.

1. Pledge of allegiance/invocation
2. Consideration of minutes/actions of previous meetings.
3. Considerations of Rezoning and Use Permit Applications
4. Consideration of Text Amendments to the City of Milton Zoning Ordinance.
5. Consideration of changes to the City of Milton Comprehensive Plan and other plans.

Section 5: The Chair shall call the meeting to order and read the following statement prior to consideration of the agenda:

*This is a regular meeting of the City of Milton Planning Commission. I am \_\_\_\_\_(Chair person or Vice Chairperson . This is a seven-member Commission appointed by the City of Milton Mayor and City Council, created for the purpose of holding public hearings and making recommendations on rezoning, use permits, concurrent variance applications, Comprehensive Land Use Plan and Plan Map and other related Plans, and amendments to the Zoning Ordinance.*

### **INTRODUCE BOARD MEMBERS**

*The petitions will be heard in the sequence listed on the posted agenda. I would like to acquaint you with some of the rules and procedures for conducting this meeting.*

*The applicant, and all those speaking in support of an application, will be allowed a total of ten (10) minutes to present the petition. The applicant may choose to save some of the time for rebuttal following the presentation by the opposition.*

*The opposition will be allowed a total of ten (10) minutes to present its position. If time remains, the opposition will be allowed to rebut.*

*Since the burden of proof is upon the applicant, the applicant will be allowed to make closing remarks, provided time remains with the allotted time.*

*The staff of the Community Development Department will be keeping track of time and will inform you periodically of the remaining time for your presentation.*

*Each Speaker must fill out a speaker card before speaking and leave it with a staff member of the Community Development Department.*

*All speakers will identify themselves by name, address and organization, if applicable, before beginning their presentation.*

*When an opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating more than \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority of the respective local government at least five days prior to the Planning Commission meeting. A violation of the relevant state statute constitutes a misdemeanor. Therefore, if you have contributed \$250.00 or more to a Councilmember and have not timely filed a disclosure prior to the Planning Commission meeting, the City Attorney strongly suggests that you have someone else speak on your behalf.*

*Each application has been properly filed with the Department of Community Development. Signs have been posted on each site, the matter has been advertised and the notices have been mailed to property owners affected by this zoning as required by the Milton Zoning Ordinance.*

*The Planning Commission's recommendation will be forwarded to the City of Milton Mayor and City Council for final disposition. The Mayor and City Council hearing will be held approximately 3 ½ weeks from this hearing, on the third (3rd) Thursday of each month at 7:00 p.m. in the Council chambers.*

*The Community Development Department has reviewed each application in conjunction with various agencies and departments, both internal and external to the City. Staff's recommendations, findings, and conclusions are here before us in written form which has been made available to all petitioners and to the public.*

*Demonstration of any sort within the chamber is prohibited, so please refrain from any applause, dialogue with the person speaking or outburst. Please turn off all cell phones, or place them on silent. All remarks will be addressed by the Planning Commission. Please show the same respect to the person speaking that you will expect to receive yourself.*

*In addition, the applicant shall not submit material to the Planning Commission during the meeting, unless requested to do so by the Commission. All material that you wish to be reviewed by the Commission in consideration of your application should be submitted to the staff of the Community Development Department, to be included in the normal distribution of packages to the Commission.*

*Finally, to the applicant, if your petition is deferred in accordance with the Milton Zoning Ordinance, you are required to update or obtain a new sign for reposting. Failure to update or re-post will result in further delay. THERE ARE NO EXCEPTIONS.*

*CALL FOR GENERAL PUBLIC COMMENT. Time will be limited to 2 minutes per person, not to exceed 14 minutes.*

Section 6: All applications to the Commission shall be accompanied by the applicant or agent representing the applicant. Should the applicant or agent for a particular application not be present at the time the subject application is heard, the application shall be moved to the end of the agenda. Should the applicant or agent not be available at the time of reconsideration at the meeting, the Commission shall vote to defer the application to the next available Commission meeting within which time the applicant shall have met all applicable deadlines for the resubmitted material.

Section 7: Consideration of applications by the Commission shall be as follows:

1. Call for the first agenda item.
2. The Chair identifies the application.
3. The staff presents the application.
4. The Chair calls for the applicant to present the application. (The applicant will have a time limit of 10 minutes.)
5. The Chair calls for public comment regarding the application. (There will be a time limit of 10 minutes for public comments.)
6. The Chair calls for the applicant to present a rebuttal or closing statements, if allotted time remains.
7. The Chair calls for the opposition to a petition to present a rebuttal, if allotted time remains.
8. If the opposition has chosen to rebut the applicant rebuttal or closing statement, the Chair shall call the applicant to present final closing statements, if allotted time remains.
9. The Chair calls the public meeting closed.
10. The Commission addresses questions to the applicant, staff, and the public regarding the application.
11. The Chair calls for a motion on the application.
12. The Chair calls for a second on the motion.
13. The Chair calls for a discussion on the motion.
14. The Chair calls for a vote on the motion.

Section 8: Decisions of the Commission shall be by a majority vote of the members present. The Commission may move to recommend approval of an application, approval conditional, denial, or deferral. A vote on a motion resulting in a tie of the members present shall constitute a failed motion. The commission must take an action on an application if it is on a scheduled agenda.

Section 9: The applicant and all those speaking in support of an application will be allowed a total of ten (10) minutes to present the petition. The applicant may choose to save some of the time for rebuttal following the presentation by the opposition. The opposition will be allowed a total of ten (10) minutes to present its position. However, time may be extended by majority vote. If time remains, the opposition will be allowed to rebut.

Section 10: The Planning Commission will not accept material submitted to the Commission during the meeting, unless requested to do so by the Commission. The Commission shall only consider that material which has been submitted to the Community Development Department and is included in the normal distribution of packages to the Commission. This shall include the consideration of revised site plans that have not yet been accepted or reviewed by the Staff of the Community Development Department.

Article VI  
Modification of Bylaws

Section 1: Except for those requirements regulated by the City of Milton Code of Ordinances, any of these Procedures may be modified by a majority vote of the Planning Commission at any regular meeting, provided the amendment was submitted in writing at a previous meeting and that said notification contains a full statement of the proposed amendment. Any proposed amendment:

1. Must include existing and proposed texts.
2. Must include a statement of the purpose and intended effect of the proposed change.

Revised: \_\_\_\_\_, 2010