

Baur asked that all cell phones be placed on vibrate or turn them off. This includes members of the Planning Commission. She reminded members of the Planning Commission to please state their names for the recorded for the benefit of those in the audience as well as for those who are recording the meeting's minutes.

Susan Baur took this opportunity to welcome Harvey Smith to the Planning Commission. Smith is a new member and the Commission is very glad to have him and thanked Smith for his service. Smith stated that he was glad to be here.

## **CONDITIONAL USE & CONCURRENT VARIANCE**

**10-0539**

**CU10-04 & CV10-02**

**ANDRETTI INDOOR KARTING & GAMES**

**11000 Alpharetta Hwy.**

Planning and Zoning Director Brad Townsend stated that this application is requesting a conditional use for an outdoor go-kart facility. The property is currently zoned C-3. There is one requested variance in reduction to the landscape requirement. This is brought about by the property being pre-existing prior to this ordinance. When it was developed the C-3 code would require a 20 percent landscape, open space area. The existing property as it stands and as it was approved and developed only contains 17 percent. So there is a three percent reduction in what would be required today. The site plan has an existing building and parking spaces. The request is for outdoor go-kart tracks along the southern property along Houze Way. There are exit access points from the indoor track to allow customers to exit to this location. The location of the outdoor track along Houze Way, the existing parking in this area from Houze Way elevation drops between eight and 12 feet to the finished floor of the building so the parking lot slopes down from Houze Way towards the building.

The applicant did provide a noise study for the outdoor use that was included in the Commission's backup material. The applicant will be required to comply with Article 8.8.3 dealing with the nuisance noise requirements and sound levels as well as hours of operation, which are currently in the code. That article was supplied to the Commission as their backup material as what would be required.

There was an outdoor demonstration in reference to the noise study on Saturday, September 25, 2010. This application was reviewed at a neighborhood meeting as well as the Design Review Board. Their comments are included. There are landscaping comments included. The site does not meet the minimum landscaping code for the 20 percent requirement but there are sufficient trees and tree density on the site to meet Roswell's tree density requirements of that location.

Susan Baur asked if there were any questions for staff.

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Cheryl Greenway stated that she had a couple of questions. The fire department indicated some concerns. Have those been addressed yet with the applicant? Brad Townsend stated that they have been discussed with the applicant and will be addressed at the time of a land disturbance permit. Greenway stated that in going through the package she saw concern relating to the volume of the sounds and potential smell. But what about lights? She really didn't see too much addressed about lights and she is wondering about the lighting. If they are going to be running at night, which is what this is indicating, what has been discussed or can Townsend bring her up to speed on the lighting issues.

Brad Townsend stated that his understanding is there are two parking lot lights in that location. They will probably use those existing poles and the applicant will address it more clearly as to whether those poles will provide sufficient lighting for the tracks to be run during the evening. Cheryl Greenway stated that she will probably have more questions later.

There were no further questions at this time for staff. At this time the Commission will hear from the applicant.

Warren Fondue stated that he was general manager and partner of Andretti Indoor Karting and Games. Also present is Stan Manousos who is the principle owner of Andretti Indoor Karting and Games. Representing AEC, who worked the site plan with the applicants, is Brad Riffle. Also present is Jesse Anert of Arpeggio Acoustics who conducted the noise study. He will be available for questions.

Fondue stated that they want to run some go-karts outside. They have gone through a complete process. Brad Riffle and AEC did the site analysis and plans. They are looking at their southern parking lot, which is on Houze Way. The current parking lot is largely unused. They have plenty of parking to the front and north of the building that is currently used.

There will be two tracks, one of which will be geared more toward families and children. They will be running a slower, concession-style kart. The second track would be similar to what the applicant has on the inside running a super kart; it would be a faster experience for the more skilled and older participants. The overall experience of this outdoor track is to do just that. Provide a new experience for residents of Roswell and the metro-Atlanta area and northern Georgia. There are currently no other outdoor go-kart track facilities in the area with the closing of StarTime about 18 months ago.

As part of the process the applicants went before the Design Review Board. They presented a number of different easels. They are proposing a structure in the center of the parking lot, which would consist of the canopy that one sees in front of them. This is primarily to serve as a protective covering over what will be

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their pit area in the center of the parking lot. It is a canvas material. They have been working with Arie Kohn Architects who will be handling the actual planning and structure of the canopy. The canopy will house the go-karts. The go-karts will live under that canopy so to speak. That will also be the entrance and the exit for their customers who come to enjoy the karts. One can see that second canopy at the top of the screen in the top left picture. That is a covered area for their guest who will exit from their building into the outdoor track area. That is an area where they will get their helmets; they will receive their briefing and get ready to race. They will be queued and lined up in that location.

Additionally, what is not pictured in the drawing is the track itself consists of barriers. These barriers are about 20 inches high and they form the shape of the track. They provide a safety measure in that they are designed to work with the karts to keep the karts in the track and to keep them safe. Additionally they have been helpful in buffering noise as well.

In preparation for this process Fondue stated that they did conduct a noise study. Obviously, as citizens of Roswell, they are concerned about the quality of life and the aspect of the neighborhoods. So they had the study done by a professional acoustic engineering firm. The applicants were actually surprised with the results themselves. What one sees on the display is taken directly from the report, which was also included as part of the Commission's packets. They tested the volume of the karts at four different locations in addition to an ambient test that was done over a 22-hour period. At those four locations one can see the results and those are decibel outputs. They did run the test with 10 karts and these were 10 of the super karts. They use a nine hp, 270 cc engine. With the logarithmic nature of sound they were able to postulate what 20 karts would sound like. Realizing of course that when they are in max operation 10 of those karts will be the high-powered kart, 10 of those karts will be the concessions style karts with the smaller engine and a lower audio output.

The chart delineates the ambient study that was done over a 22-hour period, the location being at the Brookdale Chambrel, which is about 900 feet away from the facility. That tested ambient noise that was going on in the neighborhood. The applicants are confident that at that location, which would location 4 in the test packet, the karts were not audible or measurable over the ambient traffic of Houze Road and Houze Way.

There are a number of benefits that will come from this project. Obviously an increase in business and an increase in revenues will be shared by the city with increased tax revenues. The community benefits are they are providing an additional outlet, an activity for families and kids, giving them something else to do. Also, the owners are racers. They provide an experience through private instruction and also through their summer camps and their winter camps that really gets into the business aspect of racing. This would allow them yet another aspect that they can bring into the fold of educating people and young people,

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keeping them safe and getting them interested in something that could prove to be a great career for them down the road.

Warren Fondue stated that was all he had for the Commission right now. He offered to answer any questions the Commission might have.

Susan Baur asked if there were any questions for the applicant.

Bryan Chamberlain stated that in the sound study it referenced the wind speed he believes of 10 mph. But he does not recall during the testing, he does not recall from what direction the wind was coming or blowing to. He asked Fondue to fill the Commission in on that.

Fondue stated that as it was not recorded in the report he asked Jesse Anert if he has any notes or remembers what direction the wind was coming from on the day that they conducted the test.

Chamberlain stated that if the wind was coming from the opposite direction, and he presumed that the wind was coming from the east blowing to the west toward the neighborhoods. What impact would that have on the sound carrying?

Jesse Anert stated that for a receiver that is down wind of a noise source, the sound level from that source will appear to be higher.

Chamberlain stated that they are in the midst of summer with full foliage. As they move into the winter, what impact does the lack of leaves and shrubbery and things like that have on the noise abatement currently being experienced? Jesse Anert stated that it depends largely on the density of the woods but basically one needs dense woods of about 100 feet in depth until he starts to see a noticeable attenuation of sound. Anything less than that is fairly negligible.

Warren Fondue followed up by saying that the landscaping that they are proposing in addition to what is currently existing on their site, obviously they are going to lean toward an evergreen to avoid the situation all together. But also, they will largely be seasonal. They will not operate the tracks if the conditions are unsafe to do so and largely uncomfortable. They asked for probably about nine or 10 months out of the year. The colder months, into January and February maybe even the end of December, if it is real cold outside, likely people aren't going to want to race outside anyway, in which case they would not have the karts open in the truly colder months. But that will be a business decision that they evaluate as they go.

Sarah Winner stated that she had a couple off questions for Fondue. In the race cars that they are proposing to use, what is the similarity or difference in noise volume from the cars that were previously running at Startime near Old Roswell Road?

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Warren Fondue stated that the karts that ran at Startime were what is called an Amusement product, that was the manufacturer, and that was a concession kart. They had a 6.5 hp engine, 200 cc. That is smaller than what they currently use indoors and half of what they are proposing to use outdoors. They will employ on their kid track, on the family-oriented track to use a very similar kart to what they had at Startime, that 6.5 hp/200cc engine in addition to the 9 hp/270cc engine, which is the super kart. When the study makes reference to 20 karts running, that is at absolutely maximum capacity that they could have running at any one time and likely represents less than 15 percent of what the actual operation would be if on the busiest Saturday in the afternoon they had 10 of the super karts running and 10 of the family entertainment karts running.

Susan Baur stated that she would like to follow up on that. On Table 1 of the sound study it talks about 20 go karts estimated sound level range 20 go karts. Would this be 20 of the super karts? Is this what this is indicating? Or is this 10 of the super and 10 of the concession karts?

Warren Fondue stated that the estimations in Table 1 are based on 20 super karts running. Baur clarified that they do not really have a number to look at that would reflect 10 super karts and 10 concession kart. Fondue stated that was correct.

Sarah Winner stated that she was assuming the concession karts because of the smaller engines are somewhat quieter than the larger karts. Or are they both basically about the same in noise volume? Warren Fondue stated that the smaller engines are quieter. Winner asked out of curiosity when one is trying to deal with an issue of noise, why would he test some being noisier than what his maximum is going to be? That does not seem logical to Winner. Fondue stated that it is what they had. They don't currently operate any of the smaller karts. Their current fleet of go karts when they did the test and again when they did the demonstration for the on-site demonstration for the neighbors they just did not have the smaller karts available for them to use. Winner clarified that what Fondue is saying is that their tests are actually higher than what one would expect the actual to be because the maximum super karts they are going to run is 10 and the concession karts would be more on a noise volume like Startime used to be. Fondue stated that was correct.

Cheryl Greenway stated that in the noise survey there was a photograph that was pointing out the three different locations that were measured. But when it was reproduced it was too dark. One could not be read here. She would like to get the applicant to point out exactly where those locations were on that map.

Warren Fondue stated that he has a color copy. Position no. 1, location no. 1 is on the southwest corner of their property. Location 2 is across the street on the sidewalk in front of Jackson Acura. Location 3 is in the southwest corner of

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Roswell Bicycles, directly in front of Roswell Bicycles. Location 4 is just further down the way just east of the intersection of Houze Way and Houze Road. The chart details locations one, two and three. Location four was not included in that chart because as it states in the report the sound levels of the carts was not audible or measurable at that location over the ambient traffic noise of the intersection.

Cheryl Greenway stated that she would be honest and say that she is kind of surprised that the sound is not carrying further. Is that due at all to the parking lot being lower? Is that keeping some of the sound from getting out? If so, when they do this is that going to be raising the level of the parking lot any?

Warren Fondue stated that he is sure there is a number of different factors that are containing the sound now. As to the second part of the question, they have no plans to elevate the location at all. They have to resurface the parking lot but that is an inch of asphalt.

Harvey Smith went back to the noise study. What impact or maybe the noise expert could extrapolate on but if they constructed a berm or some kind of enclosure on the south and west side of the property, what effect would that have on the numbers, the decibel levels that he has in the report. Jesse Anert stated that it was safe to say that obviously any type of obstruction that one puts between the noise and the receiver is going to effect the receiver's perception of that noise. In addition they are proposing the additional landscaping. They have a wall of cypress along the western wall of their location which is probably doing quite a bit to help contain that noise. Obviously what is not pictured but has not been taken into effect yet are the barriers themselves that will determine the actual layout of the track as well as the canopy structure, which will also serve to impede or break up the flow of the noise.

Smith stated that he was thinking since, and he knows this is probably a DRB type consideration, but the fence that has to be installed for security and safety purposes; what if that were a solid barrier? If it is six feet high what effect would have on these numbers?

Jesse Anert asked if Smith was proposing a solid barrier. Smith stated that he was just curious what effect would if have on the noise study that was done. If one had a six foot barrier, a seven or eight-foot barrier, whether it is an earthen berm or just a fence itself, a solid fence of some type. Anert stated that he would have to do the analysis but a wall certainly would reduce the sound levels at the site. Smith asked if it would be 50 percent, 40 percent, is that hard to say? Anert stated that in theory any kind of a wall is not going to get one more...he can count on a maximum of a 20 decibel reduction. He is not saying that one would get that out of such a wall here but it would just depend on the height of the wall. But certainly a few db's is possible. The effectiveness of a barrier would frankly

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be limited somewhat by the presence of the reflective wall that is the south wall of Andretti's. It would require an analysis to take all of those things into account.

Sarah Winner stated that she wanted to clarify a point with Jesse Anert. Warren Fondue just mentioned that the Leyland Cypress provide some kind of noise barrier. Winner thought she just heard Anert say a few moments ago that it takes almost 100 feet or 100 yards. So she is guessing that the Leyland Cypress really aren't much of a noise barrier. Is that correct? Jesse Anert stated that was correct. Winner stated that she would just like to clarify too that based on these locations, which the Commission was not able to read in the documentation they received prior to this. Anert basically took three measurements on the intersection right next to where the go karts are going to be and the numbers came out either in compliance with Roswell's noise ordinances or slightly above it for the evening hours. When one moves down to the intersection of Houze and Houze, over the traffic noise Anert was not able to pick up any significant noise from the go karts. Is that what she is hearing Anert say?

Jesse Anert stated that for the most part the traffic at that intersection was masking the sound of the go karts. He could not get any definitive numbers as to what impact the go karts were having at that location. Winner clarified that in Anert's expert acoustical opinion the fact that they are running 20 go karts that are slightly noisier than the 20 maximum go karts he could run and that at the corner of Houze and Houze the noise level is under the requirement for Roswell, how likely is it that homes beyond that would be impacted to the point where they would no longer be in compliance with Roswell's noise ordinance.

Winner thinks that at the end of the day that is what this is going to boil down to if this go kart facility generates noise that is compliance with Roswell's noise ordinance there is not really an issue other than the landscaping issue. If someone is living in that area and they are standing outside at night barbecuing and the noise ordinance is in excess of what one is allowed to have then there is an issue. She is deferring to Anert that if this were approved, and people ended up in these areas saying that this noise is louder than it is allowed to be. Does Anert feel 100 percent confident that it would be within the noise ordinance beyond this Houze Road intersection?

Jesse Anert stated that during the day, more than likely they will be in compliance. During nighttime hours it is very close, frankly. Particularly at the Chambrel development.

Susan Baur followed up by stating that location 1, adjacent to that is a town home community, right behind there. Warren fondue stated that location 1 was actually on his property. He believes that what Baur is making reference to is over where they did the ambient study.

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Susan Baur stated that based on the numbers that the Commission has been given because they have not been given any other numbers to reflect 10 full 9 hp go karts and then the concession karts. These are numbers that the Commission has in front of them. There are times of the day where they may not be in compliance with the noise ordinance of the city of Roswell. How would Fondue feel about that? How is he prepared to deal with that? The way Baur sees it is that he will have people calling the police all the time to come out and test the noise.

Warren Fondue stated that they are prepared for whatever scenario presents itself. Effectively what he is confident is going to happen is once they get the site built, once they have the landscaping in place, the barriers in place and the proper...the actual karts that they are going to be using in place they are going to find that they are well in compliance with the noise ordinance. Should they be outside compliance they will address the issue. They will look at what alternatives may need to be taken to correct the situation. Obviously they are good neighbors, they have been good neighbors and they will continue to be good neighbors.

Harvey Smith asked if these hours...he has a question related to the proposed public hours of operation. Is Fondue expanding the go kart operation? Will he still be running the karts inside also at the same time? Fondue stated that they would. Smith is curious why they have to run until 1 a.m. to make this business model work if they are going to be running outside also? Fondue stated that what they will find is they need to be able to operate as often as possible in order to make it financially successful. What they will likely find is that as the business presents itself, they will be making business decisions and it is very possible that people don't want to race late at night outdoors as was the case at Startime. They were able to operate until 1 a.m. but usually did not. They will have to evaluate these business decisions based on the demand that their guests are putting forward for them.

Smith asked if fondue was going to be buying additional karts for this so that will be more capital outlay. But other than the fencing on the pavilion area and the karts, Fondue is not making a lot of capital improvements. If he has been successful this period time, what is it over 10 years running them indoors? Smith is just curious how the business model where they would justify running them after midnight for example and if that is necessary.

Warren Fondue stated that the previous business of operating 10 years there have been three, they are the fourth ownership of the building. So the business model is fragile. The addition of the outdoor tracks obviously offers a new experience for people who are looking for a different experience. They have a number of repeat customers who come and see them on almost a daily basis to come and race. The outdoor tracks will attract new business as well as give their current customers the opportunity to enjoy a different experience and a great

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experience that they can't enjoy anywhere else locally. As to running that late at night, they don't know what the business need is going to be. They have put forward this request based on what they forecasted their need to be as far as being able to achieve the return on investment that they are looking for. Because it is a significant capital investment to purchase what will amount to be 30 or 40 new karts, the canopy structure, the barrier systems themselves. It is quite significant of an investment. Obviously they are going to want to be able to see a return on that investment.

Mark Renier stated that the noise engineer stated that obviously as traffic goes down at the intersection, Fondue's situation gets worse with the noise decibels impacting the neighborhood. There is going to be a point in time, 8 p.m., 9 p.m. 10 p.m. where as traffic dies out his decibel level go up to the neighborhoods. Is that correct?

Jess Anert stated that the decibel level from the kart facility will not increase but it may become more audible because of the masking of other noise specifically when traffic will go down.

Renier stated that if it is going to be an issue, it is going to be an issue around 11 p.m.-12 midnight, 1 a.m. for the neighbors.

Sarah Winner stated that she is kind of from the school that rules are rules. It looks like the place where they think they are going to be breaking the rules with noise decibel levels, regardless of whether it is more audible or not, but the fact that it might be too noisy for Roswell starts occurring after 11 p.m. If something like this was approved with the condition that the indoor karts stop at 11 p.m. until Fondue has the barriers in place, the karts are in place and he can do additional studies to prove that the decibel level is where it needs to be to not exceed the 60 decibels after 11 p.m. Would that be something that Fondue could live with? Because what the Commission does not want to do is and what Winner heard Fondue say was "oh, we'll deal with it after they have bought 30 or 40 karts and after they have spent a bunch of money." She is not buying that. She thinks that once one has spent a bunch of money they have a big albatross that is noisy at night and they won't know what to do with it. If he puts all of his stuff in place, if the Commission believes based on these noise studies that he is probably okay up until about 11 p.m. And at that point if Fondue can prove that he is still okay then he can come back and ask for some kind of variance to move it later in the evening. Winner personally does not think that there are that many people awake at 1 a.m. that are going to be out in Roswell. She does not see that many people up at that time of the morning. But, would that be enough for Fondue to move his business model forward?

Warren Fondue stated that it might be. Unfortunately he does not have a hard answer, yes or no on that. He would actually request that they work it the other way. And if they could be approved to be later....the main reason being that this

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process is obviously quite lengthy and as opposed to having to get to the point where they say okay, you're fine, go ahead and go later. That would require him to go through this entire process again. As opposed to where if they get to a point where they find out that it is an issue after 11 p.m. he is sure that it is a much easier and simpler process for him to just stop running at 11 p.m.

Sarah Winner stated that she understands the three meeting process and the months is a pain. She understands that. She asked Brad Townsend if it were possible for the Planning Commission, and this is all hypothetical, she is not saying she likes what the applicant is doing or doesn't like what he is doing. If the Planning Commission were to approve something that said because it looks like the numbers are going to be fine and they are not really in violation of any rules. They are approved to 11 p.m. And afterwards if they can with code enforcement or whoever is required at Roswell to verify that their decibel testing is in compliance with Roswell code, would they have to come through this whole process again. Or could it be made an if/then condition in the zoning that if they are able to prove it they would automatically have it and they wouldn't have to go through the whole process again financially and time wise?

Brad Townsend stated that he thinks the difficulty of something like that is if the Commission conditions it in a certain way and that condition is not in compliance and they are no longer meeting the conditions of a lot that used to be there. They have expended the cost...

Sarah Winner clarified that if they say go ahead and build it but they can only run it until 11 p.m. because the Commission is virtually certain based on what they are hearing that the applicant is within the noise compliance, which if they are not breaking any rules and they already have the conditional zoning....she thinks the only issue is they are going to be breaking Roswell rules if they want to stay open between 11 p.m. and 1 a.m.

Brad Townsend added if they exceed the 60 percent decibel level at a receiving residential property.

Winner stated that they would have to prove through decibel testing with the barriers in place, with the correct cars, with the Leyland Cypress that people who have residential homes....they would say that one might be able to hear it but it is within the noise ordinance of Roswell.

Brad Townsend stated that the tough issue with that is there are probably too many factors and unknown conditions as to it is clear and sunny, wind blowing a particular way, humidity is a certain percentage and they have 10 cars and five smaller cars running and one hears it. But the wind blows the other way after it switches in an hour...the tough part of that is how does one enforce it and then way is the mechanism in why one brings them into compliance. It is not to draw a hard line in the sand, it is pretty easy to say one will not run this operation after

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11 p.m. one way or another whether they comply with the noise ordinance or not. They just choose that his conditional use is conditioned upon him being able to only run it until that time. He is making a business request to the Commission in saying no; he wants that flexibility and that opportunity to do that. If he is in compliance with Roswell's regulations, why can't he do that, kind of scenario? That is where the choice of the council will then say that they will make this a process in which the community gets involved which they hear from the Planning Commission and they will then make a decision. The council members will make the decision whether the use is granted or not. Then they will probably say that they will only grant this with these following conditions. That is were the Commission will probably get some more discussion this evening as to what conditions are appropriate and what conditions would Planning Commission recommend appropriated for the development to move forward.

Harvey Smith stated that if this is approved hypothetically, if they are out of compliance with the noise ordinance, Roswell is going to bring them into compliance whether they spend \$500 or \$20 million on the project.

Brad Townsend stated that if there is a complaint, if they are found out of compliance they will do something that brings them into compliance or stop doing the activity that takes them out of compliance and if those factors are disputed they end up in front of the judge and fines and go from there.

Sarah Winner stated that she was still not clear; Townsend will have to help her a little bit more. If they say their numbers are correct and they think the applicant is within the decibel level that Roswell allows and he can run until 11 p.m. But looking at the numbers that they currently have to look at and he is out of compliance between 11 p.m. and 1 a.m. If they come back after the fact and say they have now taken the test and they feel confident and they have numbers to support that they are in compliance and they understand that if someone calls and they are out of compliance then they cannot run between 11 p.m. and 1 a.m. anymore...that is a financial risk that they would be taking. But would they have to go through this whole process of Design Review Board, Planning Commission, council, to have those extra two hours added to their ability to run a business.

Brad Townsend stated that they could probably with legal counsel; craft a condition that would do just that. He thinks it is probably to give....Winner stated that the burden would be on the owner. Townsend stated that was correct, the burden is on them but the city could probably draft words or language which protects the city as well as the current code and the requirements. It would say that these are the standards one has to meet. If he is meeting those standards he gets the two extra hours from 11 p.m. to 1 a.m. If he does not meet those three times in three months or some criteria in which the city would say they have to come into compliance. He is not going to get to run four months out of the year when the trees are gone, when they know he is not going to comply and things like that. Townsend thinks a condition can be crafted to do that but not here

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tonight. He thinks the legal department could probably help them with something along those lines.

Sarah Winner stated that she was not saying that she is supportive of that or not but hypothetically the Commission could say that they are supportive of this conditional zoning with the understanding that it is the owner's burden to ensure that he stays within the noise ordinance of Roswell and if he is suddenly running 80 decibels that is a problem that is going to shut his track down. So, whether the Commission believes it the owner would have to believe it even more that he is in compliance.

Harvey Smith asked Warren Fondue what the chance was that the go-kart manufacturer would have a special muffler system for outdoor karts. Has he investigated that?

Warren Fondue stated that they have started conversations about it. There is certainly nothing standard on the market. He has had lengthy conversations with people about it. The short answer is it may be possible. Harvey Smith clarified that it was not worth investigating. Fondue stated that he did not say that. They have investigated, they have started the process but it would be a lengthy process as well. They are messing with exhaust systems and engines and all engines that operate in the United States have to be certified by the EPA. So it is a lengthy process, but it is not outside of the realm of possibility. Smith stated that it seems to him like that the most important issue they are discussing tonight is noise related and any consideration they are given there for that that would really simplify the issue.

Warren Fondue stated that there are a number of other factors that can be investigated as well, of course the landscaping and the additional structures that are going to be in place around these tracks. One gets into the balance between what the outlay would be, what the investment would be versus what the return would be. But they are good business people and they will make those decisions wisely and as necessary as they go through the process.

Harvey Smith stated that it would be green to put electric motors on them. One can go real fast with electric.

Bryan Chamberlain asked if these engines are currently muffled. Warren Fondue stated that they are. Chamberlain clarified that the sound measurements are based on the engine running with a muffler. He is just looking for clarification. The issue that was brought up and there are things that the Commission would do down the road. He is trying to explore what some of those things are with specificity.

Bryan Chamberlain asked Fondue if he has given any consideration to some type of sound deadening. He believes the gentleman from the sound test said

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that reflected sound off of the south wall of the building contributes to carrying the sound. Has Fondue given any consideration to some type of sound deadening devices on the building to absorb some of that?

Warren Fondue stated that it is on the list of potential things that may be available down the road. Not part of this initial project because of the cost factor of something like that they were hoping that they would not have to do that. But it is something that they have considered. They have spent quite a bit of time in determining the best ratio as they move forward. But there are a number of things that they have in their arsenal should this be a problem which again they are proposing that it will not be.

Bryan Chamberlain stated that the placement of these two tracks is on the south parking lot. The southwestern portion of the south parking lot would appear to be closest to the residential neighborhoods in question specifically. The north section of the parking lot that sits behind the old oil change place...was there consideration given to putting it there? And is that a realistic spot should this location not be approvable?

Warren Fondue stated that there was consideration it determined not to be necessarily realistic because of the challenges of the flow of the parking lot and the way people come and enter into the property, move throughout the parking lot, park and then enter into the building. They also have to find a safe way to get them from inside of the building to the outdoor tracks. And the distance of that northeast corner is prohibitive in doing so safely.

Sarah Winner stated that she is going to change topics because she is a big tree fan and Fondue is reducing what is already an under requirement landscape plan. There are a bunch of Bradford Pears on his property and some maple trees bordering the property. He also has an eastern border that doesn't have any telephone lines, which means he could put whatever kind of trees he wanted there. One of Winner's personal pet peeves in Roswell is everybody comes in, the city gives them a landscape plan and they plant some little tree that they water and then two years later the tree is dead and all they have is grass and some scrubby bushes. Bradford Pears are not going to live very long. They start splitting and they will be gone. If part of their conditions to Fondue for approving this were that he have a reduced landscape plan but they want significant...by that she means get rid of the Bradford Pears or as the Bradford Pears die they are replaced with oaks and they are ensured that when an oak dies it is replaced and that is perpetual as long as this business is in place. It doesn't mean in two years one can quit watering it. Would that be acceptable to Fondue from a business perspective?

Warren Fondue stated that honestly he does not know the cost of such a plan, so he would not be able to say yes or know from a business perspective. He likes trees as well. He would not go so far as to call himself an enthusiast. He couldn't

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identify a maple from a pear. But he wants to be able to put landscaping in place that is going to add to the aesthetic value and the functionality of what they needed to do. Obviously, they need a certain amount of visibility from the street and it was mentioned the lack of phone lines so way up is not a problem.

Sarah Winner stated that she is just saying that in five years she had rather see beautiful oaks trees or something significant along Alpharetta Hwy. than to see the Bradford Pears splitting and suddenly they just have grass all the way along Alpharetta Hwy. and in addition they have cut back the landscaping plan by 25 percent.

Warren Fondue stated that they certainly would be able to take that into consideration.

Susan Baur asked Fondue if he is planning on adding any lighting to that area. Fondue stated that likely he will have to add a bit. One of the conditions from the staff was that the light poles match the existing light poles that are in the front of their parking lot, which he accepts. There are currently two light fixtures in the south parking lot that they would like to use. They may have to add the actual light boxes to the top of them. Right now there are two. There is actually only one pole left but they have a stump of another pole that fell down. There are only two light boxes; they may have to add two more light boxes to the top of those poles. They need to have enough light to operate safely, enough visibility for the people to be able to drive on the track taking into consideration shadows and things. They will and have already talked to Georgia Power about the light study that they are going to be doing before a final DRB approval to make sure that they are in compliance with the light requirements of the city of Roswell.

Susan Baur thanked Fondue and asked if there were any other questions for the applicant. Hearing none she opened the meeting up to the public portion and public comment. She asked if there was anyone who like to speak in favor of this applicant. If so, he may come forward now.

**Chris McCoy**  
**6715 Center Grove Street**  
**Cumming, GA**

Chris McCoy stated that he used to live in Roswell. He lived off of Hembree Circle Drive before he moved. He has been a visitor to Andretti's since it opened in December coming up on 10 years ago, which is hard to believe. He has also done business with Andretti in the past through several regimes and wanted to speak to the current ownership as being heads and shoulders above the previous ownerships. Starting from the beginning to as it has gone through they have contributed a great deal of capital to improve the facilities. He has helped with the youth camps that they run there and also he runs leagues for them. He has people who have driven from Tennessee and Alabama to participate. So as

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part of that, and those are people that are showing up at 7 a.m. on a Saturday to be a part of something like this. They have a facility here that draws people from all over, not just Cumming, but even further. People talk about it and it draws people from further around the city and brings more tax revenue to the community. Not unlike a golf course, one has Saturday, Sunday, a sunny day, those are their peak days. It is the same thing with Andretti's. They have their peak days when they can only get so many people on the course. By adding this it allows them exponentially to be able to expand their operation and therefore bring in more revenues and bring more people to the area. The karts they are talking about are not unlike a push mower. A Honda G270 is what they are referred to. It is basically a push-mower type. It is even more muffled than a push-mower engine. As the Commission reflects on that and looks at the situation McCoy is sure that as he has dealt with Andretti's in the past they have been good to work with people to be good neighbors.

McCoy stated that as he looks through here, that is all he has except that once again he wants to reiterate that Andretti's does a fantastic job. He has raced in a lot of different facilities around the country doing go-karts and they are some of the best neighbors and facility that he has been to.

Susan Baur thanked Chris McCoy and asked if there was anyone else who would like to speak in favor of this application. No one came forward. Baur asked if there was anyone who would like to speak in opposition of this application. Baur reminded the speakers that there is a 20-minute limit total. She wants to get everyone's comments in so she asked when one comes up to try and be concise.

**CINDY FULLER**  
**2065 Darien Park Drive**  
**Roswell**

Cindy Fuller asked if they were making comments are is she allowed to ask questions. Is it just general comments or is she allowed to ask questions also. Susan Baur stated that one may make comments and she may ask questions and maybe the applicant will come up and answer them in the rebuttal.

Brad Townsend stated that the questions should go through the chair.

Cindy Fuller stated that basically when the test studies were done for the noise ordinance, she is very interested in finding out why the neighborhoods that were involved around that area were....why were meters not put in that area to do the testing? She is referring to Darien Park subdivision, she is referring to Windsor Oaks subdivision, she is referring to Windsor that is right on the corner, which is the new condominiums that are there now. And none of the testing was done at any of those locations. She thinks that is very important. The reason those are important is with them living in Darien Park, the new dealership, the car dealership right across the street from Andretti's...if one goes there any time

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during the day and come to Fuller's home and she is in the middle of her subdivision, he will hear them say, "Ed, line two. Salesman, line four. New car sales, line three." Fuller is able to hear that from her home. And that being said, that can be during the day, it can be in the afternoon and it can be in the evening. She does not know where comes in comparison to basically noise from a motor kart. She basically drives a motorcycle herself, which is a Dakadi. She is very well brimmed on the noise. She will let the Commission all know if they have never heard a noise at even 69 decibels, it is loud. That is her own preference.

Another comment that Fuller is going to make is when they talk about the trees in Roswell. In her neighborhood if they basically have a dead tree, if a tree falls, they are required by Roswell to replace that tree. In the past Andretti's has had lots of trees that have fell in the past. It has taken them months and months to replace them and as stated before and as mentioned in the discussion tonight was the planting that was now going to be put in as far as the Cypress or whatever, it is going to take a while for those trees to grow to do any kind of deterring of noise. She also will say that the ramping that going around when they are talking about the track and the little barriers that are going around, when those cars do get in those barriers, it is very important that they put some type of barriers up to hear the sounds because she knows the sounds do go up. The more one puts, the more he concaves....she takes her voice right now and she starts talking, she is not raising her voice, but as she begins to do this one will see her voice go up and down because she is now bringing that noise into a supported area. So if one brings those karts around a track in concrete barriers the noise will go up.

The only other comment that Fuller would make is she will say that Andretti's is a great establishment. She has nothing against the establishment. She does have something against her tax dollars in Roswell that she pays every year to beautify our area. They fight very, very hard to keep the area beautiful. They are basically now bringing motor vehicles in one area. It doesn't bring anything beautiful to that. As far as bringing noise, Fuller will let the Commission answer their own question.

**Ron Newman**  
**Darien Park**

Ron Newman stated that he was one of Cindy Fuller's neighbors. He has a number of comments. He will try to make them brief because he knows there are a lot of people that want to speak. The other day, on Sunday, Newman went for a bike ride and he went into one of the neighborhoods down the street. There was a little boy out driving one of those remote control cars. About a block a way Newman could hear this thing making noise. It makes him think in listening to that revving engine seven days a week up until they are proposing 1 a.m.; he does not want to listen to that. He thinks that having this track built whether it be noise or just a view of having these cars running around very close to these

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neighborhoods, it is going to affect his home value. It is going to go down, which is going to affect the city of Roswell's tax value because the taxes are going to go down. Additionally, if one looks at the map he sees the New Haven Walk. It is the town home community that is being built there. It is incomplete. Newman questions as to who would buy there if there is a race track one-tenth of a mile from those homes. It is directly to the west where the track is going to be built. It is about one-tenth of a mile. Further down the road on Houze Way one has multi-million dollar homes going up. There are communities that aren't complete. Newman can tell the Commission right now with his home in Darien Park, it is over \$400,000, if this track existed when he was looking at homes he would not have bought there without any question. He questions if anyone else is going to buy down the road in those multi-million dollar homes if they have to drive by this all of the time and potentially hear it. They may not hear it but they are going to see it all of the time. Newman stated that he will cut his comments short because he knows there are a lot of people who want to speak. His final comment is when they did their noise test and Newman does not know Andretti's really well but they probably good people. But when they did their sound test, whether by design or chance, they were loaded for the best conditions. It was done in the summer time when there is lots of trees, lots of foliage. High humidity will also reduce the sound level when done in the afternoon. Newman would request that a very minimum the Commission delay a vote until there can be a new noise study done with the worse case scenario such as in the winter months with no foliage on the trees and dry conditions. These are the things that are going to make the sound carry even more. He would like to find out what the numbers are really going to be. Get the real karts out there, the noisy ones not the quiet ones and an estimate of what the difference is going to be.

Newman thanked the Planning Commission for their time and consideration.

Susan Baur asked Newman to point out where Darien Park is. He pointed out the town homes that he was referring to and just north of there is where Darien Park is. It is right off of Houze Road on the west side of the street. That is two to three-tenths of a mile from where Andretti's wants to build a track. One needs to ask himself if he would want these race carts going around two-tenths of a mile from his home, seven days a week.

Sarah Winner asked Newman if they came out and they did a sound study...the Commission cannot really tell a business person he has to wait five months until the weather changes. They are paying taxes too. They have a multi-million dollar property that she is sure their taxes dwarf her residential taxes. And if they weren't there her residential taxes would go up significantly so they want to be supportive of businesses in Roswell but not at the expense of homeowners. So it is kind of a fine line they are trying to walk. If they came out to Newman's neighborhood and did a sound study prior to going to the city council, which will have the ultimate decision on this....what Winner heard them say previously at the town home community that is under construction on the corner of Houze and

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House, which logistically looks like it would be even closer than Newman's neighborhood, that they could not hear the noise except at night and that it was within the decibel rating. If they did that noise study and people from his neighborhood were welcome to be there when it was going on, would that give Newman some level of confidence on whether or not this should be approved?

Ron Newman stated that to be honest, even if it meets the decibel level he is not in favor of this property by them. Sarah Winner stated that they also said that it was not audible at the corner where those town houses are that Newman pointed out. She does not know if that was true or not. Newman stated that he hates to question because clearly Jesse Anert is an expert in this field. But he questions whether that is true or not. He wants to bring up the fact that those conditions were done with the lower decibel karts under the best conditions, with the trees and the high humidity.

Sarah Winner stated that her question is, if it is not audible in Newman's neighborhood, would that be sufficient for him to say it is not an issue. Newman stated that he would feel better about the issue but he would still be opposed to the issue.

Mark Renier clarified that basically if these karts made no sound Newman would still be opposed to this because of the use. Wouldn't that be true to say? Ron Newman stated that he believes that would be true. His objection to it would be severely downgraded and he guessed that he could live with it. But he definitely would not want to see these karts running around at all hours of the night...hours is not a fair statement...from morning until late evening. It is just not the type of neighborhood that he would....he would want to see in his neighborhood.

**JIM HARGRAVES**  
**1185 Falstaff Drive**  
**Roswell**

Susan Baur asked Jim Hargraves to point out where his home is on the site plan. Hargraves stated that he lives on Falstaff Drive, which is further on down the road here. He thinks there are a couple of perspectives here. First of all if these go-karts are like a lawnmower, how many people want to have a lawnmower start up next to their house at 11 p.m., even if it is under a noise ordinance? And have that sound continuously when he is trying to get some sleep. Hargraves stated that they have been talking about noise and the staff ignored in their report the question of land value and property valuation because on question no. 19, when it says whether the proposed zoning map would affect the value or be a deterrent to the value of homes in the area, they said undetermined. Hargraves called them and asked why that was undetermined. Didn't the staff think it was important? The value of homes in the area? The entrance to Hargraves' subdivision and three others is Houze Road and Houze Way. He does not know about the Commission but frankly, he does not want a circus at the front of his

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entrance to his subdivision. Frankly, having a bunch of go-karts running around in a circle with people at 11, 12 and 1 o'clock at night is a circus. Also Hargraves talked to the police department. The police department was not referencing the staff report at all. They didn't even bother checking with them. When he talked to the police they said....Hargraves said that Kent Igleheart has a thing against signs with flashing, moving type on them. He really doesn't like it. Hargraves agrees with Igleheart, it is a distraction to drivers because one starts looking at the sign and all of a sudden he is not looking at the car in front of him and the traffic. Wouldn't one think 20 go-karts running in a circle blaring out at whatever the decibel level is, just the movement right next to what SR 9 would do. With all of the traffic on SR 9 and Houze Way both. And then they are talking about how many people that late at night roaming around the sidewalks...what kind of pedestrian control are they going to have to keep people from either walking onto the property or off the property. Hargraves would recommend two things. He thinks the question of control and this is what the police said, they thought the track should not be visible from any of the streets. They should have walls up to keep the public from being distracted by the motion. The human eye is pulled whenever there is motion, one looks. The distraction could create a traffic problem, accidents and not to mention the quality of life of having to drive by a circus on the way to one's subdivision. He thinks that is the point the other gentleman was making. Who wants to drive by 20 go-karts running in a circle?

Hargraves stated that the acoustical report is a joke in his opinion. In fact he would like to have his data made public so that another professional acoustic engineer could take a look at this data and critique it intelligently. Because frankly, when Hargraves tried talking to him, he wouldn't even talk to him. He called him and he said that he was hired by Andretti. He was not even going to talk to Hargraves. That indicates a bias not an objective scientific opinion. The whole idea about wind direction and sound, all of that begs these other questions, which who wants to have.....for example, when there is one go-kart and it makes 65 decibels in noise. Does 10 go-karts make more noise than one go-kart? He does not know. That is his question.

Susan Baur stated that they would deal with that in the rebuttal. Hargraves stated that he had some letters written by members of his subdivision which he does not know if the Planning Commission has. They make very good arguments as to why this thing shouldn't happen. Hargraves stated that he could get the Commission copies of those and e-mail them to them. Susan Baur stated that if he could give them to staff...Hargraves stated that he would rather send a copy of the email. He would like to respond also as to why they didn't address the question of property value and they didn't bother checking with the police department when they did their approval.

Hargraves stated that he would like to get access to that data for review by somebody who is objective.

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**JAMES BRADFORD**  
**110 Hembree Grove Court**  
**Roswell**

James Bradford stated that his office is located at 600 Houze Way and he is representing the North Fulton Executive Square Association. They met during their annual meeting today to voice their concerns. Their concerns are they do not want this Commission to approve the application as submitted by Andretti. The noise ordinance, as Bradford reads it also applies to commercial properties as well as residential properties. The noise level as shown is in excess of 70 decibels all day long. They stipulated that it could go to 71 at their location. Directly across the street at Jackson Acura there are in the 70's totally all day long. So they are in direct violation of the ordinance. So if this is approved by this Commission then they are approving a public nuisance as stated by code section 8.8 of the code of the city of Roswell.

Bradford stated that within that ordinance they are taking into consideration the intensity, the annoyance, the length of time, which it is going to run all day long. So this ordinance will be violated all day long and just as soon as they start up this ordinance will come into effect and Bradford is sure the correct department will be contacted as far as shutting down the operation.

Bradford stated that he a couple of other things that have not been brought up. Under article 10.5 of the zoning ordinance which concerns active recreational facilities as a principal use there are about four sentences so Bradford is going to read it.

In districts where permitted playgrounds, community centers, swimming pools, tennis courts, and other active recreational buildings and structures shall be set back at least 50 feet from any property line and when in the 50-foot setback required along the side or rear property lines a minimum 25-foot wide buffer shall be provided. This goes under article 10, which is specific use requirements. It applies as follows. The regulations of this article are intended to govern specific types of buildings, structures and uses in the city of Roswell regardless of the zoning district in which they are located. The applicant's site plan which shows basically a 10 foot buffer on the rear line should be a 25 foot buffer based upon section 10.5 of the zoning ordinance.

Bradford stated that he also has problems with the site plan concerning parking but maybe somebody else wants to talk about that. And if there is any time left he would like to come back and talk about why they don't meet the parking requirements of the city of Roswell.

Susan Baur clarified that Bradford represents the one-story office building directly adjacent to the proposed race track. Bradford stated that they are 135 feet west of...there are 36 condominium units. Baur clarified that Bradford's office

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condominium association has voted in opposition to supporting this. Bradford stated that they have voted unanimously against this.

**Denise Rowe**  
**170 Charleston Circle**  
**Roswell**

Denise Rowe stated that she is representing the board of directors of the Charleston Oaks homeowners' association and represents the views of her neighborhood. Charleston Oaks homeowners' association opposes the conditional use change of Andretti's Indoor Karting and Games. They based their opposition on the following provisions of Article 31 of the zoning ordinance, No.4, which has to do with excessive or burdensome use of existing streets and transportation facilities, utilities or schools. The intersection of Houze Way and Alpharetta Hwy is currently heavily traveled. And as one knows, Houze Road is not very large there. The left turn lane is currently quite dangerous. The influx of cars and people will only add to the situation especially since the proposed outdoor go-kart track will be occupying a good portion of the parking lot. No.22, the consideration of the preservation of the integrity of the residential neighborhood shall be considered to carry great weight. The location of the proposed outdoor go-kart track is in the worst possible location, vis-à-vis negatively impacting the surrounding residential neighborhoods. Obviously, Houze Way leads directly into several subdivisions. It connects to Houze Road, which leads into even more subdivisions.

The noise level will severely impact the neighborhoods. Sound obviously travels great distances. Rowe will just say that from her house at Charleston Circle and Holly Berry Road she can hear the band playing at Roswell High School on game nights. They can also hear the band playing during the day when they practice. So, if they can hear the roar of the crowd from Roswell High School, she thinks they will be able to hear go-karts from this location as Roswell High School is a lot further away from her house than this location.

As noted above, increased traffic in an area prone to backups and accidents will only add to the traffic issues making the situation worse. Granting the conditional use could change the character of the neighborhood, negatively impacting the neighborhood value and integrity. Therefore, the request for a conditional use of the outdoor go-kart track should be denied.

Denise Rowe thanked the Commission for their consideration. She stated that she did have one question. Does Andretti's serve alcoholic beverages? And if they do, now they are going to be open until 1 a.m. Who of course is going to be out until 1 a.m. How exactly are they going to handle alcoholic beverages and the parking lot and people go-karting?

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Susan Baur stated that she would hear from one more resident and then she will close the public hearing.

**BILL BRADLEY**  
**Hembree Springs Drive**

Bill Bradley had to say that he loves following smarter people than himself. He lives on Hembree Springs Drive which is just north on Houze Road behind Andretti's. He and his wife own nine acres so extrapolate the number of houses one can put on nine acres and hear his voice loud. He thinks that what they are trying to do is fantastic, whatever. He is an entrepreneur and he applauds everybody for trying to cut their own path. However, there are some things about living in a neighborhood and living in a domain that one calls his home in which he walks out on the back deck he can enjoy some solitude, whether it be at 9 p.m., 10 p.m. and God forbid 1 a.m. Bradley stated that he does not have any problem with this seriously, but what he does have a problem with is somebody taking someone else's investment, wrapping it up in their own hand and putting it under the cloak of....this is under consideration. Bradley does not buy under consideration. He and his wife and the other members of Hembree Springs Drive have already made their consideration on buying property on that street and are being good citizens of Roswell, taxpayers, etc. Good neighbors, good family, good friends. When all of sudden something happens and all of a sudden that little, small dwelling that one calls his house is impacted upon by somebody else's wishes, Bradley has a problem with that as the Commission members would themselves. Be it one lawnmower, two lawnmowers or 20 lawnmowers at 10 p.m. it doesn't really matter does it? When Bradley is char-grilling steaks for business colleagues or friends on a Saturday night at 7 p.m., he does not want to hear leaf blowers. Sorry, neither does the Commission, right? He doesn't.

The other point Bradley would have to make is that all of the studies that were done on their sound comparisons were done in a westerly direction and none of them were done in a residential neighborhood. The question he does have is there is the comment that sound study no. 4 was done at Chambrel. Well, Chambrel is a big place. So if that sound study was done at the corner of Houze Road and the entrance to Chambrel that is one thing. But Chambrel is 20 acres. If it is done at the end of Chambrel on the back of the property and submitted as evidence, then Bradley thinks they are all being kind of misguided here. So here is what he would suggest. They are all smart people. There are some things to consider, one is foliage on the trees, which was brought up earlier. He can tell the Commission that on his nine acres he can hear Alpharetta Hwy much clearer in the middle of the winter and the middle of the spring than he does in the summer time. It's a fact. Its nature, it happens. So maybe what they should do is take a sound sample in the middle of spring and the middle of winter. No big deal, right? It is a capital investment and Bradley gets this from the applicant and he applauds Warren Fondue. Everyone wants to grow their business. But let's all

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do it as a community. Let's all do it and embrace each other as people who have to live in harmony with businesses.

Seeing that no one else wished to speak Susan Baur stated that she will now invite the applicant up for rebuttal. She asked if there was anything else the applicant would like to say.

Warren Fondue stated that there were just a couple of items that he wanted to address that were brought up that he just wanted to make sure they were all understanding the material that they have in front of them.

It was mentioned about their hours of operation. They are not proposing to be open until 1 a.m. every day. Their current hours of operation, they are closed at 10 p.m. during the week. They are open until 1 a.m. on Fridays and Saturdays.

The aspect that they serve alcohol is not changing. They serve alcohol. They have a very solid system in place whereby they protect their guests and their employees in making sure that people who have been drinking do not drive the karts. So that is not going to change with the outdoor karts. There would be no additional controls in the parking lot because it is essentially what they are doing now.

They are likely going to be a seasonal operation. In the extreme cold months and when the weather affects the safety of the outdoor tracks, they are not going to operate. That goes for rain in the summer as well as extreme cold and ice in the winter.

They have a good turnout tonight from the neighborhood. As they went through this process and they realized that sound was going to be the biggest issue they reached out and invited the neighbors, the same mailing list that was used to announce the rezoning process. They used that same mailing list to invite their neighbors and the residents to come to their site and witness an on-site demonstration so that they could see and hear what exactly was going to be happening. It was relatively poorly attended.

As far as the overall use of the outdoor tracks National Average Industries Statistics show them that go-kart facilities, indoor and outdoor, are currently operating at 13 percent of their available inventory. And Andretti's is no exception. They fall right into that category, which when translated means if they are open for 10 hours, 1.3 hours is actually used continuously throughout that 10-hour period. That is a national average and that is where Andretti's is inside. Obviously they are looking forward to being busy and to operating at as much capacity as possible. But reality tells them that the actual business use of the outdoor facility will be considerably less than what the perceptions are that have been expressed here tonight.

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Additionally, with regard to the sound, Fondue stated that they did conduct a test in a residential neighborhood. That is where the ambient noise test was done. The ambient noise test was done at Roswell Chambrel. In the noise study report Jesse Anert states in there that estimating the 20-kart usage, the decibel level received at that property at that location would be between 55 and 60 decibels, which is inside of the ordinance.

As far as the seasons and the weather and the trees and the humidity and the different things, the decibel levels won't change. It is the perception in the audibility of that noise as it goes through.

They are good neighbors. They will continue to be good neighbors. They will take any situations and scenarios that do arise from this and address them and address them in a way that is equitable and fair and in concurrence with all parties involved including their neighbors.

Warren Fondue stated that was all that he had and asked if there were any additional questions.

Susan Baur stated that there was a question about the barriers from someone in the audience. Would the barriers on the track make the sound louder? Jesse Anert stated that the barriers were 20 inches tall. There is some truth in that but he would not expect that a barrier 20 inches tall would have any impact. The motors are typically higher than 20 inches.

Susan Baur clarified that it was possible that it could be louder. Anert said there was some truth in that. Anert stated that there is some truth in that when a noise source is surrounded by a wall, basically, that it is going to increase the level of that sound source. But what he is saying is that the barriers are 20 inches tall and so much of the noise is above that place that those little barriers are going to have a negligible impact.

Sarah Winner stated that several comments have been made regarding lawnmowers. Is the sound of a lawnmower approximately the same sound as what one would be hearing from here? Is it going to be more or less or approximately the same? Jesse Anert stated that he would say that if one had a go-kart running next to a lawnmower the go-kart would be louder. Winner stated that was what she was looking for and thanked Anert.

Winner stated that she does have one follow-up question. If the sound barrier walls that are frequently built beside highways are erected, how much of an impact does that actually make for homes that may be up to a half of a mile or a mile away? Anert stated that it depends on the configuration, the height, the length of the sound barriers and it would just take an analysis. Anywhere from a few decibels to 15-20 decibels is possible. Winner clarified that if they were run along the western portion and the southern border, which would be along Houze

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Way in between the office park. Would the people who are working in an office trying to sit in a conference room and conduct business, would they hear lawnmowers? Would it be so muffled that they would not hear it if there was a 10-foot sound barrier wall there?

Jesse Anert stated that he did not know what those buildings are constructed of so he can't make a comment.

Susan Baur asked if there were any other questions for the applicant.

Stan Manousos with Andretti's stated that they wanted to follow-up on a couple of things that Warren Fondue has been addressing. On the day that they invited the neighborhood out to come and listen to the go-karts in actual operation they physically went into the Roswell Bicycle Shop and they could not hear the go-karts running at all. He thinks that is the distinction that they have to make. Yes, the karts do make some noise, no question about it, undeniable. But on the corner of Houze Way and Houze Road at Chambrel, location no. 4, it was inaudible. There was no measurable noise at that level. Anything further west where those homes are, they are not going to hear it. It is just not conceivable that they can hear it. He thinks that they are getting lost in if it is a go-kart engine, is it a lawnmower engine, is it an RC, radio controlled car? He agrees that whines. He would not want to be near that all day as well. But the go-karts themselves, at the corner of Houze Way and Houze Road, inaudible and not measurable.

Susan Baur asked how many karts were running when Manousos was at that corner. How many go-karts were running when he said it was inaudible? Manousos stated that during the study it was 10. When they invited the neighborhood out for that Saturday the 25<sup>th</sup>, they had anywhere from seven to 11 or 12. Baur stated that she was out there and she thinks that they were running six at that time. Manousos stated that was correct. But, they had a business to run too and they were taking the karts from the inside. Whenever they had available karts they brought them out and just kept running them.

Harvey Smith asked what the maximum number of karts that could run at full capacity outdoors under the proposed plan. Manousos stated that the maximum they would have as a safe operation would be 10 super-karts and 10 concession karts. He asked Smith to keep in mind that the study is referring to 20 super-karts, the louder karts. But they would never have 20 super-karts running. Smith stated that they did not test 20, they extrapolated. Manousos stated that was correct. He is not a sound engineer either but apparently there is some methodology that they use. They did not have the 20 karts to do that. Smith stated that they don't know for a fact that that has been proven. That it is within the sound ordinance, noise ordinance. Manousos stated that he can only refer to the sound engineer and the study that he conducted. In his study it is not audible and not measurable.

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Bryan Chamberlain stated that two of the of primary issues that the Commission heard from opposition were auditory and visual, the perceived impact being on property values. They talked about the auditory. What would Manusoz's proposed solutions be for the visual in that so far there doesn't appear to be any visual abatement of what could be seen from the street. Manousos stated that as far as he is concerned he likes looking at go-karts but he sure not everyone here does like looking at that. Is it an impact? Sure. Just like everything that is on the street is an impact. The strip center next to them has Ferris wheels and rides there right now. Someone had talked about a circus effect. That is an actual circus. These karts are very low to the ground. The barriers are 20 inches high. The karts...someone's head when they are sitting in the kart probably their neck and above is above the barrier. It is not like they are running monster trucks through the track, which would certainly be visible to someone on the street. The track itself is 8 to 12 feet in certain areas, lower than Houze Way and that makes it more difficult for someone to see that area when they are driving down Houze Way or Alpharetta Highway.

Bryan Chamberlain asked if the decision came down to yes or no based on visual, and the applicant had a choice of saying well here is what we can do to minimize the perceived negative impact of the visual, what would he propose to alleviate that visual problem to the homeowners? Manousos stated that it was kind of difficult to alleviate a perceived notion of what one is looking at. If there were something that they were actually looking at then there might be something that they can do. But if it is just a perception....Chamberlain asked what would some of those things be that he does because if one sees a go-kart that is not perceived, he sees a go-kart. If he sees someone going around and around and there is nothing to keep him from seeing it from Houze Road or Alpharetta Hwy then that is a visual. What would Manusoz's proposal be to eliminate that visual in order to get to the point of having supportive homeowners as opposed to non-supportive?

Manousos stated that frankly he wants the support of the homeowners but he does not want to impair the visibility of it because that helps them. It is just like asking the Acura dealership to block the visibility of their lot. They don't want people seeing the cars. That is Andretti's business; that is what they do. That is what the Andretti family is all about. But having said that, they do have some landscaping if he is not mistaken that they are adding that will be a visual impairment from Alpharetta Hwy and from the easterly portion of Houze Way.

Susan Baur asked if there were any other questions for the applicant. Hearing none she that Manousos. At this time Baur closed the public portion of the meeting and stated that they will have a discussion and make a motion.

Susan Baur stated that one of the members of the audience referred to Chapter 10.5 in the zoning ordinance as it pertains to recreational facilities. Is there any

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relevance here? Brad Townsend stated that the reference to Chapter 10.5 Active Recreational Facilities as well as principal uses has been applied as it relates to residential developments and their recreational facilities and the buffers required by those types of uses. That is how it has been applied in the past. It is not applicable to this development.

Susan Baur called for discussion from the Commission.

Sarah Winner stated that she would start just because this is a really hard one. Sometimes things are a little more black and white. Before coming to this meeting she usually tries to do some homework so she went to a bunch of the town home owners along Old Roswell Road. She went to The Oaks apartment complex. She even knocked on a couple of doors at the office condominiums that back up to the old StarTime. No one in any of those areas had ever had a problem, ever reported issues with the noise from StarTime. Now, given this is noisier she does not know that she feels confident tonight that she knows that it is not going to exceed Roswell's noise ordinances. She understands that there are people here who have homes and one does not want to hear noises at night. She understands that completely. The Commission also has to recognize thought that when one buys a home, if it is near offices or recreational parks or commercial areas that can effect what he hears or does not hear. He hears the Acura dealership because their homes are within a certain radius of commercial property. In Winner's mind it all boils down to this is someone who, like the homeowners has invested in Roswell and they are asking for permission to be noisier. The real issue is can they be within the Roswell ordinances and conduct the kind of business that they are zoned to be able to do? Winner is not confident with these numbers that have been proposed tonight that they actually would be under the required decibel levels especially or their nighttime operations. She thinks that burden of proof has to be on the applicant and she actually does not know how one proves it if he actually does not have the karts and he does not have the buffers. But as for contacting the communities, she believes they contact the homes that are adjacent to the actual property and the majority of people who expressed concern tonight are not actual adjacent to the applicant. So the person Winner felt the most compelling tonight was the gentleman who has an office 50-feet away from where these are going to be running. And his noise concerns could impact his business. For Winner what he had to say tonight was significant because if he can't run his business because there is too much noise there that is an issue. So, on the western boundary with the office complex Winner thinks it would behoove the applicant to check with these office owners and see if there is anything he can do that would mitigate the sounds to where it is certainly within their office buildings would be possible to conduct business and not hear the whir of a lawnmower even if it is only a certain percentage of the day. She believes also that people who were there first have a right to expect that the rules will be enforced and will protect them. She thinks it would be very detrimental to an office complex if there was so much noise next door that if a perspective buyer came in to buy one of their office-condos they would say it was

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very noisy there. That would certainly negatively impact their business. Winner thinks that her vote tonight will be that the Commission does not recommend it at this time but that they encourage the applicant to conduct some additional sound studies at the entrances to some of the actual neighborhoods that are here tonight and that they work out some kind of arrangement with the office association to see if they can bring them on board. Then, when they go to council, council will have more information than the Commission has had tonight to decide whether or not the applicant is within his bounds going forward. That is where Winner, personally is sitting tonight.

Susan Baur stated that she tends to agree with Sarah Winner. She is not fully comfortable with the numbers that have been presented to the Commission tonight in the sound study. And based on the sound study it appears that the noise ordinance in Roswell will be violated off and on all day long. She thinks that has the potential to create an administrative nightmare for the city of Roswell, specifically the police. And she thinks that it is very important in one of their guidelines that the Commission looks at is guideline no. 22 which states that the consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight. She thinks that this plan, as it has been presented tonight does have the potential to adversely affect some of the residential neighborhoods as well as some business establishments that surround it. That is not to say that she is not opposed to an outdoor race track. She thinks that there is potential to have something like that, but not as it has been presented tonight in her opinion.

Susan Baur asked if anyone else would like to make a comment for discussion.

Harvey Smith stated that as the previous comments, he is not comfortable with the noise study itself. He questions its reliability or its objectivity. He also questions the visibility. He thinks that as cars drive by there is a safety issue there. The distraction that it would pose and it sounds to Smith like for the marketing purposes the applicant wants people to see the go-karts go around those tracks. He can see a safety concern with that in addition to the noise. He does not think enough work was done to be purely objective with that. He does not think they researched all of the options with the noise objections from the neighborhoods, the business community and the residential areas. He thinks the go-kart manufacturers, he would imagine in this day and time when green is so popular there's probably some options there that may not have been explored. He personally would be more comfortable with a better plan than has been presented tonight.

Mark Renier asked Brad Townsend if instead of not recommending this application if the Commission could table this and have it brought back. Let the applicant go do a new study.

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Brad Townsend stated that if the Commission wishes to delay this they would still have to open a hearing at council and request a deferral at that meeting. But it is within the applicant's purview whether he wishes to be delayed or not. If the Commission is looking for more information and the applicant is unwilling to do additional studies and to do additional steps...they have what they have in front of them to base their decision on. If they feel it is inadequate then make the recommendation to have additional things take place. But they could also just recommend denial and it would move forward also.

Mark Renier stated that he does not necessarily have a problem with this if the noise and maybe some of the visual concerns were addressed. That is his position. He necessarily would not recommend denial. He would ask that the applicant go back and study, try to work out some visual remedies. Try to take care of those two issues that are obviously affecting the neighborhoods.

Bryan Chamberlain stated that he personally likes auto sports. He is an avid motorcyclist and he applauds the efforts that the applicant is looking to do here. The two things that the Commission has heard tonight in opposition, two primary things that Chamberlain is still not hearing solutions to, are the perception that there is going to be a noise problem and the perception will only go away when there is proof that there is not going to be a noise problem. But that is a perception in part of multiple neighborhoods in the area. Second is the visual which is perceived to have a significant impact on property values. Chamberlain stated that he cannot vote in favor of this until he hears a completely different sentiment from the neighborhoods. So, it would appear to him that the spade work that needs done is the applicant dealing with those issues in relation to the neighborhoods and when the neighborhood are supportive then it makes a vote a non-issue. It is easy to vote yes. But they have commercial and they have residential. They have several different sizes of residential investments represented and that carries a lot of weight. But personally, Chamberlain would like to ultimately see this project move forward.

Susan Baur called for a motion.

Cheryl Greenway stated that she thinks Sarah Winner summarized it very well. She loves the idea. She has enjoyed being at Andretti's. She would love to do a go-kart outside. So she can appreciate where the applicant is coming from, from a business standpoint. But it has got to be something that is going to work together for the community and right now it is not doing that. She would agree that probably it is best that the Commission vote for denial at this time but then that would give the applicant until the council meeting to do additional tests as Sarah Winner suggested in these areas and also meet with certain representatives here to try to see if they can't come through a process where everyone feels this is a more workable solution. But Greenway feels like the applicant is halfway through the battle but he is not totally there yet. He thinks that there are more issues that have got to be nailed down more positively to

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make the situation work. For the Commission to try to table it she thinks would just slow the applicant down again and her impression is that he really does want to move forward with this and get a decision one way or the other. Greenway asked Brad Townsend if the applicant has the right to do any deferral on their own or would that have to come from the Planning Commission if they wanted to say that they would like to go back and come back to the Commission again?

Brad Townsend stated that the way the process is set up the applicant has the opportunity to defer at this level as well as they can defer at least one or two times at the council level. The way the ordinance is read they have to be heard at least by the 65<sup>th</sup> day, which at the end of the process would actually be January 10, 2011. That is the last time in which an action by council needs to be taken.

Cheryl Greenway stated that that deferral really needs to be more of a request from the applicant than from the Planning Commission. Brad Townsend stated that was correct.

Susan Baur told the applicant that it was up to him if he wants to request a deferral or if he wants to move forward.

The applicant asked Brad Townsend if he were to request a deferral now, how would it work out for him. Would he have to come back then before Planning Commission and when would that be?

Susan Baur explained to those in the audience that the applicant is asking because he is actually on a time line and he has to get his whole process completed within a certain time line and this would slow him up.

Brad Townsend stated that if the applicant requested a deferral at this level he would have to come back to Planning Commission. They are required to make recommendation to council on conditional uses. He would come back on November 16, 2010 to this Commission. He would then be heard by mayor and city council. The first available meeting would be December 13, 2010 and the council would have at least one additional meeting to take action prior to January 10, 2011.

Mark Renier asked Brad Townsend if the applicant has to defer to the next Planning Commission meeting. Does it have to be the next one?

Brad Townsend stated that to get any action to council within the 65 day time frame he would.

The applicant clarified that if they were to defer now they are still in line with the time limit of 65 days. So, it stills puts them to be back here before Planning Commission on the 16<sup>th</sup>. City Council is on the 13<sup>th</sup> and then there is still the

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opportunity if they need additional time after that for January 10<sup>th</sup> to stay within the requirements of the process.

Brad Townsend stated that was correct.

Warren Fondue stated that at this time, based on the recommendation of the staff and the Planning Commission he would like to request a deferral.

Susan Baur asked if the Planning Commission has to vote on it. Brad Townsend stated that they need to vote and they need to specify the deferral to come back specifically on November 16, 2010 if that is their desire.

Warren Fondue stated that he would like to ask if there is a way that he can set up an off-line meeting if you will, before the next Planning Commission meeting in the same way that they did a sound demonstration to where they can get the neighborhood out and have a conversation with some members of the Planning Commission present in an effort to get them all together moving towards a common goal. Is that even a possibility? He added the neighborhood representatives.

Brad Townsend stated that the Planning Commission members are allowed to meet with them but there can be no more than three of them there at one time so that there is not a quorum for making any decision in dealing with the discussion. If that is the request of the applicant and the Commission decides to defer, Townsend stated that he would like to have those conversations on the record as to when they can get together and make those decisions. He does not want emails flying back and forth. He would like to at least know what days and opportunities are available. They are probably going to be as flexible as they can in dealing with this discussion. Townsend would like to have it taking place as quickly as possible because they are going to have to get packages and information and things out to the Commission in that manner.

Susan Baur asked Brad Townsend if he wants a date from the Planning Commission tonight. Townsend stated that staff would probably be calling them in the morning. He does not want to put the Commission on to that spot. He knows they do not have their calendars in front of them. He would like some understanding as to whether they want to try to do it some afternoon; do they want to try to do it on a weekend situation? What are the opportunities that the Commission has?

Sarah Winner stated that she thinks the fairest thing to do. There are six or seven Commissioners. If the applicant has to coordinate some times or what not she suggested that he coordinates at least two times rather than the Commission trying to say when all six of them can get together. The applicant can pick two different times that he can measure decibel levels and that they can make sure that people from the neighborhoods of Windsor Forest, Darien Park, Charleston

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Oaks, and James Bradford's office community, she does not know the actual name of it. At each of those locations they can do some kind of a decibel reading and some kind of just a listening to it themselves. She also suggested that they do it perhaps in the evening, rather than in the middle of the day, which is the worst case scenario. And that all of the Planning Commission can come back with a lot more information. So if someone says that it sounds like 20 lawnmowers and the Commission says that they really couldn't hear it at all or if they would say that was obnoxious, they would never want that. That is going to make it a lot easier for the Commission to make an informed decision. They would love to have Andretti's business expand but not at the expense of people saying they cannot enjoy their back yard. So once they feel comfortable with that they will be able to make an informed decision that can go on to council. It would behoove them to make it as accurate of a sound demonstration as he can so that they don't have all of these what if kind of scenarios.

Warren Fondue stated that he thought they were doing that when they invited the neighborhood on the 25<sup>th</sup>. Sarah Winner stated that she thinks the disconnect probably was that Fondue, she is assuming, invited when he said the same list, the adjacent communities that bordered their property or that is usually just people that butt up to the property. It doesn't include people a half of a mile down the road.

Brad Townsend clarified that it was within 300 feet.

Susan Baur stated that she attended that demonstration and from her standpoint she thinks there were six karts running and it was very hard for her with just six karts running to be able to determine in her mind what 20 would sound like.

Sarah Winner stated that if there is a slow night for Andretti's business because she understands they are running a business and do not want to pull money making karts off of a money making track. If he is slow on a Monday night then set the test up for a Monday night because the Planning Commission wants to make the right decision. So at least she and she assumes her fellow Commission members are going to try to accommodate if he has at least two different sessions. They can divvy up based on what their personal responsibilities are to come to whatever they need to.

Winner stated that there are some people here and she suggested that if one lives in those neighborhoods and he wants to be present that he meet Warren Fondue afterwards and make sure he has their email address and name so that he is not scrambling, trying to find their homeowners' association president or somebody that he can get in touch with them and be the contact for their neighborhoods.

Cheryl Greenway added something just to clarify. Sarah Winner mentioned about two sessions. Maybe if they could do...because she knows this is going to take

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time and cost for the applicant and she agrees that the more of the karts that they can have out there, the better the test is going to be. Rather than trying to have a couple of different ones, she asked Brad Townsend if there is any reason they couldn't break off into twos and be in different locations and scatter around because technically that is not the three and they could do it all at one time and be done. Brad Townsend stated that would be fine. Cheryl Greenway also stated that she appreciates all of the neighbors coming out tonight and their comments but she would really like to see them out there with the Commission that night and see what they can hear. They do need to promote business in their community and they want to help there. Let's see if they can somehow try to make this work.

Susan Baur asked if there was a motion to defer.

### **Motion**

Sarah Winner made a motion to defer this until the next Planning Commission meeting at the request of the applicant for CU10-04 and CV10-02. In the interim the applicant will coordinate a demonstration of the karts running. The Commission would like to see 10 karts running if possible while the actual demonstration is going on. If possible, the Commission would like to have people from the Windsor Forest, Darien Park, Charleston Oaks subdivisions and North Fulton Executive Square and members of the council and Planning Commission all notified of when the applicant intends to conduct this demonstration. There is another neighborhood Winner wants to include: Hembree Springs. Those neighborhoods be invited to attend and that it take place sometime in the evening hours, preferably as late as possible. Not at 1 a.m. but maybe sometime between 8 p.m. and 9:30 p.m.

The next Planning Commission meeting is November 16, 2010.

Mark Renier seconded the motion. The motion passed unanimously.

### **TEXT AMENDMENT**

**10-0551**

**RZ10-08**

#### **Text Amendment regarding a revision to Chapter 10.39, Sidewalk Cafes**

Brad Townsend stated that this is a proposed text amendment dealing with the development standards and criteria for sidewalk cafes. When this ordinance was initially adopted the standard was a three-foot minimum clear distance that the city of Roswell wanted to maintain on its public sidewalks on Canton Street. During the review of most of these locations it was determined that five-foot clear distance provided cross-traffic walking both ways instead of the three-foot. They are requiring that to be increased. All of the current sidewalk cafes that they have approved do meet this requirement so they are not hindering any existing

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