

**MAY 15, 2012 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 1**

ITEM # 3

PURPOSE

To consider amending the site plan and stipulations for Mountainprize, Inc. regarding Z-89 (Racetrac Petroleum) of 2006, for property located in Land Lots 40 and 41 of the 20th District, at the southwest intersection of U.S. Highway 41 and Dallas Acworth Highway (State Route 92).

BACKGROUND

The subject property is zoned Neighborhood Retail Commercial (NRC) for a convenience store with fuel sales. Since the approval in 2006, the applicant has acquired the property located at the intersection to incorporate into the site design. The inclusion of this property allows for a better site layout, less curb cuts, and better traffic flow. Additionally, the applicant is showing the new Racetrac prototype store which is about 6,300 square feet, of which 3,000 square feet is customer service area. The applicant has submitted photos of the proposed store (see attached). If approved, all other zoning stipulations would remain in effect.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed site plan and stipulation amendment.

Cobb D.O.T. recommends the applicant coordinate with GDOT regarding their project on SR 92 and recommend applicant pay 100% of signal upgrades needed for development proposed right of way improvements on SR 92.

ATTACHMENTS

Other Business Application, zoning stipulations and photos of new store.

Application for "Other Business"

Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2045)

BOC Hearing Date Requested: 05/15/12

Applicant: Mountainprize, Inc. Phone #: (770) 422-7016
(applicant's name printed)

Address: 376 Powder Springs St., Ste. 100, Marietta, GA 30064 E-Mail: phuff@samslarkinbuff.com
SAMS, LARKIN & HUFF, LLP 376 Powder Springs Street, Suite 100
Parks F. Huff Address: Marietta, GA 30064

(representative's name, printed)
[Signature] Phone #: (770) 422-7016 E-Mail: phuff@samslarkinbuff.com
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature] My commission expires: _____
Notary Public



Titleholder(s) Mountainprize, Inc. Phone #: (770) 431-7600
(property owner's name, printed)

By: Julie Bowen
3225 Cumberland Boulevard, Suite 100,
Address Atlanta, GA 30339 E-Mail: phuff@samslarkinbuff.com

[Signature]
(Property owner's signature)

Signed, sealed and delivered in presence of:
[Signature] My commission expires: 10-13-12
Notary Public



Commission District: 1 **Zoning Case:** No. Z-89 (2006)

Date of Zoning Decision: July 18, 2006 **Original Date of Hearing:** July 18, 2006

Location: Southwest side of US 41 at Highway 92

Land Lot(s): 40 & 41 **District(s):** 20th

State specifically the need or reason(s) for Other Business: To revise the site plan with new store square footage.

(List or attach additional information if needed)

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
JULY 18, 2006
PAGE 11

~~Z-86 MAUDE DEVELOPMENT, LLC (Laura Wilson Harding, owner) requesting Rezoning from R-20 to RSL for the purpose of Senior Condominiums in Land Lots 261 and 332 of the 19th District. Located on the north side of Powder Springs Road, west of Murray Circle. (Held by the Planning Commission from their June 6, 2006 and July 6, 2006 hearings; therefore was not considered at this hearing)~~

Z-88 JCB DEVELOPERS (Eldridge Blake Wynn a/k/a Blake E. Wynn, owner) requesting Rezoning from R-80 to R-20 for the purpose of a Subdivision in Land Lot 276 of the 20th District. Located on the north side of Kennesaw Due West Road, east of Elk Cove Court. **WITHDRAWN WITHOUT PREJUDICE**

Z-89 RACETRAC PETROLEUM (Seung Hee Lee, Joseph Ahn, Kyoung Kim and Karen Yeon Choi, owners) requesting Rezoning from R-30, NS and GC to NRC for the purpose of a Convenience Store with Fuel Sales in Land Lots 40 and 41 of the 20th District. Located on the southwesterly side of U.S. Highway 41, east of S.R. 92 and on the east side of S.R. 92, south of U.S. Highway 41.

The public hearing was opened and Mr. Parks Huff and Ms. Teresa Stendahl addressed the Board. Following presentations and discussions, the following motion was made:

MOTION: Motion by Goreham, second by Olens, to approve rezoning to the NRC zoning district subject to:

- site plan received by the Zoning Division June 28, 2006, *to be used for reference only*, subject to Plan Review with the District Commissioner to have final approval (copy attached and made a part of these minutes)
- District Commissioner to have final approval of the use, architecture, landscaping and treatment of buffers for the southeastern portion of property, *with no defined improvements*
- letter of agreeable stipulations from Mr. Parks Huff dated July 12, 2006 with the following addition: (copy attached and made a part of these minutes)
 - *No dumpster pick up from 11:00 p.m. to 7:00 a.m.*

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
JULY 18, 2006
PAGE 12

Z-89 RACETRAC PETROLEUM (Continued)

- Applicant is obligated to connect to sewer within six (6) months of sewer availability on this property
- Developer to submit plans to Lake Allatoona Preservation Authority (LAPA) for review, subject to Plan Review
- Fire Department comments
- Water and Sewer Division comments and recommendations
- *revised* Stormwater Management Division comments and recommendations (copy attached and made a part of these minutes)
- Cobb DOT comments and recommendations

VOTE: ADOPTED unanimously

Following the vote on Z-89, a brief recess was taken from 10:22 a.m. until 10:34 a.m.

~~Z-92 KEYSTONE DEVELOPMENT SERVICES, LLC (Ackerman East West, LLC, owner) requesting Rezoning from CRC to LI for the purpose of a Self Service Storage Facility in Land Lots 841 and 842 of the 19th District. Located on the west side of Tramore Pointe Parkway, south of the East-West Connector. (Continued by Staff from the July 6, 2006 Planning Commission hearing; therefore was not considered at this hearing)~~

~~Z-94 B. JADOW & SONS, INC. (Julian A. Jadow, Henry C. Jadow, and B. Jadow & Sons, Inc., owners) requesting Rezoning from R-20, IF and LI to LI for the purpose of Warehouse and Distribution in Land Lots 681, 682, 702, 703, 704, 775 and 776 of the 18th District. Located at the southwesterly intersection of Factory Shoals Road and Bob White Road, on the southwesterly side of Bob White Road, south of Factory Shoals Road and at the northern terminus of First Flag Drive. (Continued by Staff from the July 6, 2006 Planning Commission hearing; therefore was not considered at this hearing)~~

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2006**

OTHER BUSINESS:

ITEM #1:

Other Business Item #1 was considered following the vote on the Consent Agenda.

ITEM #2:

To consider amending the stipulations regarding Z-89 (RaceTrac Petroleum) of July 18, 2006, for property located in Land Lots 40 and 41 of the 20th District. Located on the southwesterly side of U.S. Highway 41, east of S.R. 92 and on the east side of S.R. 92, south of U.S. Highway 41.

Mr. Mark Danneman, Zoning Division Manager, provided information regarding request to amend stipulations. The Board, by general consensus, found this to be a minor request. There was no opposition present. Therefore, the following motion was made:

MOTION: Motion by Goreham, second by Olens, to **approve** stipulation amendment regarding Z-89 (RaceTrac Petroleum) of July 18, 2006 for property located in Land Lots 40 and 41 of the 20th District. Located on the southwesterly side of U.S. Highway 41, east of S.R. 92 and on the east side of S.R. 92, south of U.S. Highway 41 **subject to:**

- **amendment of stipulation to now read: *The Board of Commissioners to have final approval of the use, architecture, landscaping and treatment of buffers for the southeastern portion of the property with no defined improvements***

VOTE: ADOPTED unanimously

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI*
MELISSA P. HAISTEN

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

July 12, 2006

WWW.SAMSLARKINHUFF.COM

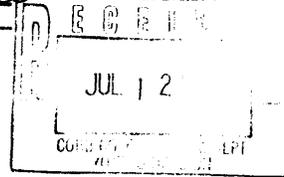
OF COUNSEL
DAVID P. HARTIN

*ALSO LICENSED TO PRACTICE
IN ALABAMA

Min. Bk. 43 Petition No. Z-89
Doc. Type Stipulation
letter dated July 12, 2006
Meeting Date July 18, 2006

VIA HAND DELIVERY

Mr. John Pederson, Planner
Cobb County Zoning Department
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661



Re: Application of RaceTrac Petroleum, Inc. to Rezone a 6.08 Acre Tract from
NS, GC and R-20 to NRC (No. Z-89)

Dear John:

As you know, I represent the Applicant and property owners in connection with the above-captioned Application for Rezoning. The application was recommend for approval by the Cobb County Planning Commission on July 8, 2006 and will be heard by the Cobb County Board of Commissioners on July 18, 2006.

After the Planning Commission hearing the applicant has continued a dialogue with nearby residents and this dialogue has resulted in an additional stipulation. Following is a list of the stipulations that were agreed to in my previous letter dated June 28, 2006 with additional changes.

1. Rezoning of the subject property shall be from GC, NS and R-20 to NRC for the purposes of a convenience store with gas sales and appurtenant use of the remaining property consistent with NRC zoning requirements. The use of the property in excess of the convenience store shall be subject to the review and approval of the district commissioner.

VIA HAND DELIVERY

Mr. John Pederson, Planner
Cobb County Zoning Department
Page 2
July 12, 2006

Petition No. 2-89
Meeting Date July 18, 2006
Continued

2. The convenience store shall include brick on all sides. The canopy pillars will also be brick. The architectural style of the buildings on the residual property not used for the convenience store shall be subject to the district commissioner's review and approval.
3. Landscaping for the proposed development shall be pursuant to a specific landscape plan which shall be submitted during the Plan Review process, subject to staff and the Arborist's review and approval, including the following:
 - a. All grass planted within the convenience store development shall be sod.
 - b. Dumpsters shall be incorporated into the landscape plan and shall be screened on at least three (3) sides consistent with the architectural theme and composition as aforementioned. All dumpsters shall have rubber lids and bumpers to minimize noise.
 - c. All HVAC and mechanical systems shall be screened from view by vegetation.
4. Signage for the proposed development shall be incorporated into the landscape plan, shall be consistent with the architectural theme as aforementioned and shall consist of ground-based, monument style signage. There shall be no flashing sign components and no vehicles will be parked on the property for advertising.
5. The canopy lighting shall have flat lenses that do not protrude below the canopy and all direct lighting will be shielded.

VIA HAND DELIVERY

Mr. John Pederson, Planner
Cobb County Zoning Department
Page 3
July 12, 2006

Petition No. Z-89
Meeting Date July 18, 2006
Continued

6. Subject to the following Cobb County Department of Transportation recommendations and compliance with Cobb County Developmental Standards and Ordinances related to project improvements, including the following:
 - a. The installation of a deceleration lane at both the Highway 92 and Cobb Parkway points of access.
 - b. The installation of curb gutters and sidewalks on all road frontages.
 - c. Entering into a Development Agreement, pursuant to O.C.G.A. §36-71-13 for the dedication of the foregoing system improvements.
7. Subject to recommendations from the Stormwater Management Division with respect to the ultimate location and configuration of detention facilities on the site. Additionally, if recommended by Stormwater Management, the installation of a first flush system on site. The applicant will agree to an oil water separator.
8. The applicant shall conduct an pre and post development silt study in the cove of lake Allatoona that the subject property drains to subject to the guidance and review of Lake Allatoona Preservation Authority (LAPA) and Cobb County's stormwater management division.
9. Unless otherwise required by law, there shall be no outside audio devices including, but not limited to, telephone bells, loudspeakers or music. However, the installation and utilization of two-way individualized speakers at each pump station for safety/instructional purposes shall be allowed. There shall be no customer welcome speaker system.
10. No vehicle shall be stored or parked on the subject property overnight except in emergency situations. Employees working at night shall, of course, be excepted from this stipulation.
11. The convenience store building is 4997 square feet. However, the revised site plan that was submitted with the June 28, 2006 stipulation letter shows the sales area to be 2900 square feet. It is the applicants understanding that this meets the county's interpretation of the ordinance limiting the square footage to 3000 square feet.

VIA HAND DELIVERY

Mr. John Pederson, Planner
Cobb County Zoning Department
Page 4
July 12, 2006

Petition No. Z-89
Meeting Date July 18, 2006
Continued

12. The air and water facility will be located as depicted on the site plan.
13. The applicant will install a berm and landscaping along its southern property line where it is contiguous with the north property line of property presently owned by Bill Hagemann. Running within this buffer will be a six foot wooden opaque fence.

I trust that the foregoing information and documentation is helpful to you. However, please do not hesitate to contact me if you need any additional information.

Very truly yours,

SAMS & LARKIN, LLP



Parks F. Huff

PFH

cc: Members, Cobb County Board of Commissioners
Ms. Gail K. Huff, Assistant County Clerk -VIA Hand Delivery
Ms. Karen King, Deputy County Clerk - VIA Hand Delivery
Ms. Julie Bowen, Engineering Project Manager, RaceTrac

APPLICANT: Racetrac Petroleum

PETITION NO.: Z-89

PRESENT ZONING: R-30, NS, GC

PETITION FOR: NRC

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson

Land Use Plan Recommendation: Neighborhood Activity Center

Proposed Number of Buildings: 1 Total Square Footage of Development: 4,997

F.A.R. 821 Square Footage/Acre

Parking Spaces Required: 5 Parking Spaces Provided: 26

The applicant is requesting the NRC zoning district to develop a convenience store with self-service fuel sales. The building will be one-story with an all brick exterior. The store will be open 24 hours a day, and would contain 12 pumps, which equates to 24 fueling stations. There are not any plans yet for the rest of the property. The proposed store's wastewater would be provided by a septic tank, since there is not any sewer in the drainage basin.

Historic Preservation: After reviewing various county resources including historic and archeological resource surveys, documented Civil War trench maps, and historic aerial maps, staff finds no known historic properties affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

FIRE COMMENTS:

The applicant is responsible to ensure all Cobb County Fire and Emergency Services Code requirements are met related to this project. Plans will need to be submitted to the Cobb County Fire Marshall's Office, prior to any permits being issued.

Standard comments:

1. Provide 24-hour emergency phone number (offset in bold print on all sheets).
2. Fire Hydrant
 - a. Commercial: Fire hydrant within 500 feet of most remote part of structure.
 - b. Residential: Fire hydrant within 500 feet of structure.
3. Fire apparatus access road shall extend to within 150-feet of all portions of the facility or any portion of the exterior wall of the first floor IFC 503.1 2003 Edition. **All access roads shall have an all weather driving surface capable of supporting 75,000 pounds with an unobstructed width of not less than 20-feet, 25-foot inside turning radius, 50-foot outside turning radius and unobstructed vertical clearance of not less than 13-feet 6 inches.** Dead-end access roads in excess of 150-feet shall be provided with a turn-around IFC 503.2.5 2003 Edition. Cul-de-sac with an island: minimum 60-foot radius to outside curb, measured to inside of curb. Minimum lane width = 24-feet. Residential cul-de-sac without island: 38-foot outside radius. Commercial cul-de-sac to have a 60-foot paved radius. Hammerhead turn-around: total of 110-feet needed (45-feet + 20-feet wide roadway + 45-feet).

Additional Comments:

APPLICANT Racetrac Petroleum

PETITION NO. Z-089

PRESENT ZONING NS, GC, R-30

PETITION FOR NRC

NOTE: Comments reflect only what facilities were in existence at the time of this review.

WATER COMMENTS:

Available at Development? Yes No

Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s): 20" Cobb Marietta Water Authority / E side 92 Hwy

Additional Comments: Cobb Marietta Water Authority permission required for a meter

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS:

In Drainage Basin? Yes No

At Development? Yes No

Approximate Distance to Nearest Sewer: Out of basin (Allatoona)

Estimated Waste Generation (in G.P.D.): **A D F** 500 **Peak** 1250

Treatment Plant:

Plant Capacity Available? Yes No

Line Capacity Available? Yes No

Projected Plant Availability: 0 - 5 year 5 - 10 years over 10 years

Dry Sewers Required? Yes No

Off-site Easements Required? Yes* No

Flow Test Required? Yes No

Letter of Allocation issued? Yes No

Septic Tank Recommended by this Department? Yes No

Subject to Health Department Approval? Yes No

* If off-site easements are required, Developer must submit easements to CCWS for review / approval as to form and stipulations prior to the execution of easement(s) by the property owner(s). All easement acquisitions are the responsibility of the Developer.

Additional Comments:

Health Dept approval required for on-site sewage management system(s) if 10,000 gpd or less to be generated. Georgia EPD approval required for larger flows

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

APPLICANT: Racetrac Petroleum

PETITION NO.: Z-89

PRESENT ZONING: NS, R-30, GC

PETITION FOR: NRC

TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Cobb Parkway	30040	Arterial	55 mph	Cobb County	100'
Dallas Acworth Hwy	16370	Arterial	45 mph	Cobb County	100'

*Based on 2004 traffic counting data taken by GADOT. (US 41)
Based on 2004 traffic counting data taken by GADOT. (GA 92)*

U.S Highway 41 is classified as an Arterial and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.

State Route 92 is classified as an Arterial and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.

Access drives to U.S. 41 should be a right-in/right-out.

Install sidewalk, curb and gutter along both road frontages.

Inter-parcel access to all out lots.

As necessitated by this development for egress from U.S. Highway 41 a deceleration and an acceleration lane will be required at each access point.

As necessitated by this development for egress from State Route 92 a deceleration and a left turn lane will be required as determined at plan review.

GDOT permits will be required.

RECOMMENDATIONS

Recommend right-in/right-out access points on U.S. Highway 41.

Recommend installing sidewalk, curb and gutter along both road frontages.

Recommend inter-parcel access to all out lot.

Recommend a deceleration and an acceleration lane along U.S. 41 at each access point.

Recommend a deceleration lane and a left turn lane on SR 92 as determined at review.

Recommend GDOT permits for all work that encroaches upon State right-of-way.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

APPLICANT: Racetrac Petroleum

PETITION NO.: Z-89

PRESENT ZONING: NS, GC, R-30

PETITION FOR: NRC

***** Revised *****

DRAINAGE COMMENTS

Min. Bk. 43 Petition No. Z-89
Doc. Type Revised SWM
Comments
Meeting Date July 18, 2006

FLOOD HAZARD: [] YES [X] NO [] POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Allatoona Cr (Lake Allatoona) FLOOD HAZARD INFO: Zone X

- [] FEMA Designated 100 year Floodplain Flood.
[] Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
[] Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
[] Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: [] YES [X] NO [] POSSIBLY, NOT VERIFIED

Location: _____

- [] The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: [] YES [X] NO [] POSSIBLY, NOT VERIFIED

- [] Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
[] Chattahoochee River Corridor Tributary Area - County review (_____ undisturbed buffer each side).
[X] Georgia Erosion-Sediment Control Law and County Ordinance - County Review/State Review.
[] Georgia DNR Variance may be required to work in 25 foot streambank buffers.
[] County Buffer Ordinance: 50', 75', 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- [] Potential or Known drainage problems exist for developments downstream from this site.
[X] Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
[X] Minimize runoff into public roads.
[X] Minimize the effect of concentrated stormwater discharges onto adjacent properties.
[] Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
[X] Existing Lake Downstream (Lake Allatoona ~ 1500' downstream).
Additional BMP's for erosion sediment controls will be required.
[X] Lake Study needed to document sediment levels.
[] Stormwater discharges through an established residential neighborhood downstream.
[] Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream stormdrainage system.

APPLICANT: **Racetrac Petroleum**

PETITION NO.: Z-89

PRESENT ZONING: NS, GC, R-30

PETITION FOR: NRC

DRAINAGE COMMENTS CONTINUED

Petition No. Z-89
Meeting Date July 18, 2006
Continued

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown - **must be addressed at Plan Review.**
- Copy of survey is not current - Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS/SUGGESTIONS

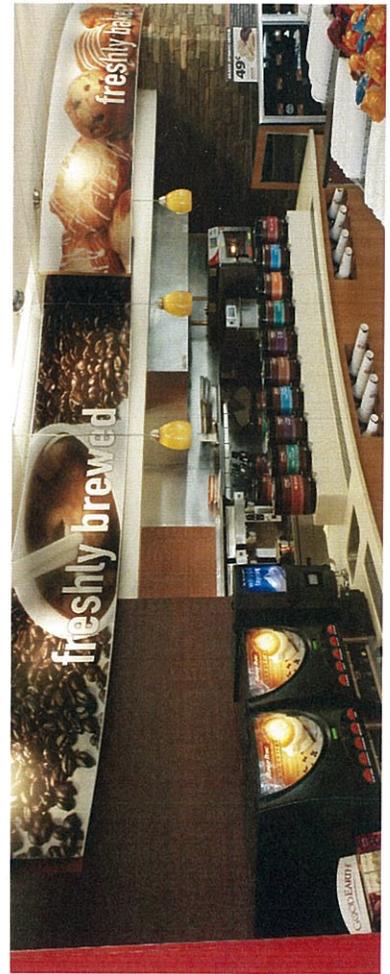
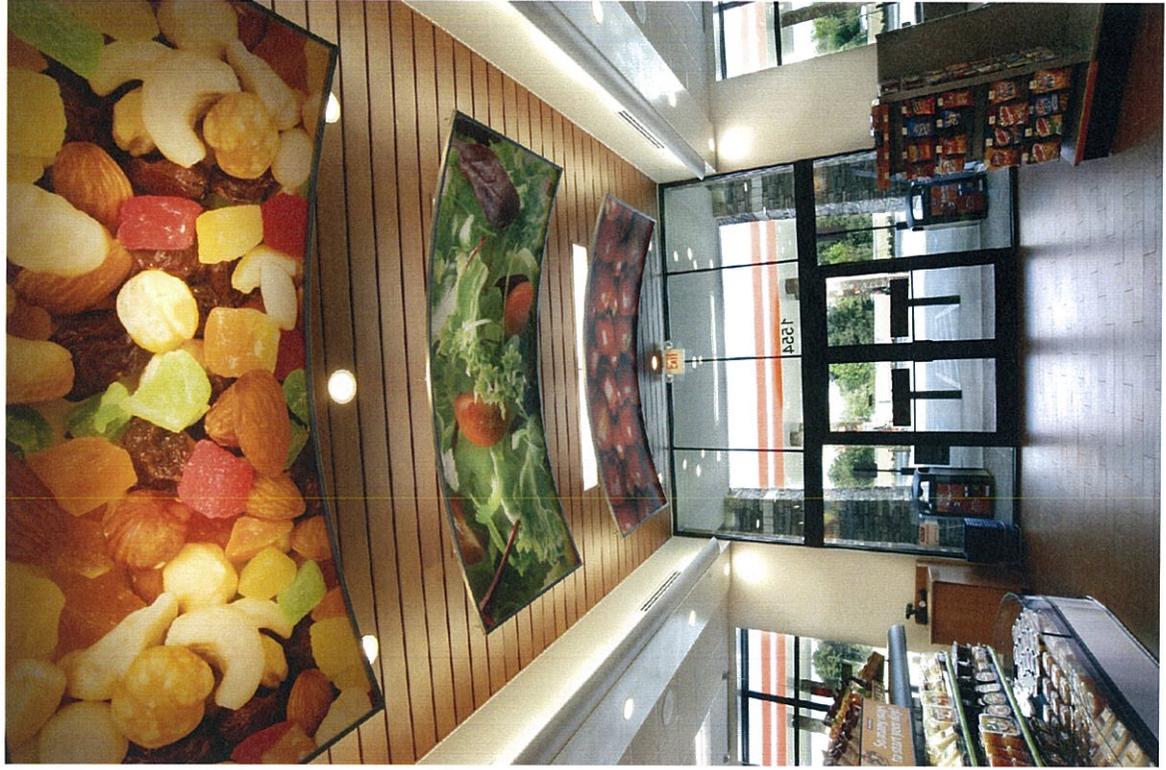
Comments based on Revised Plan dated 6/13/2006

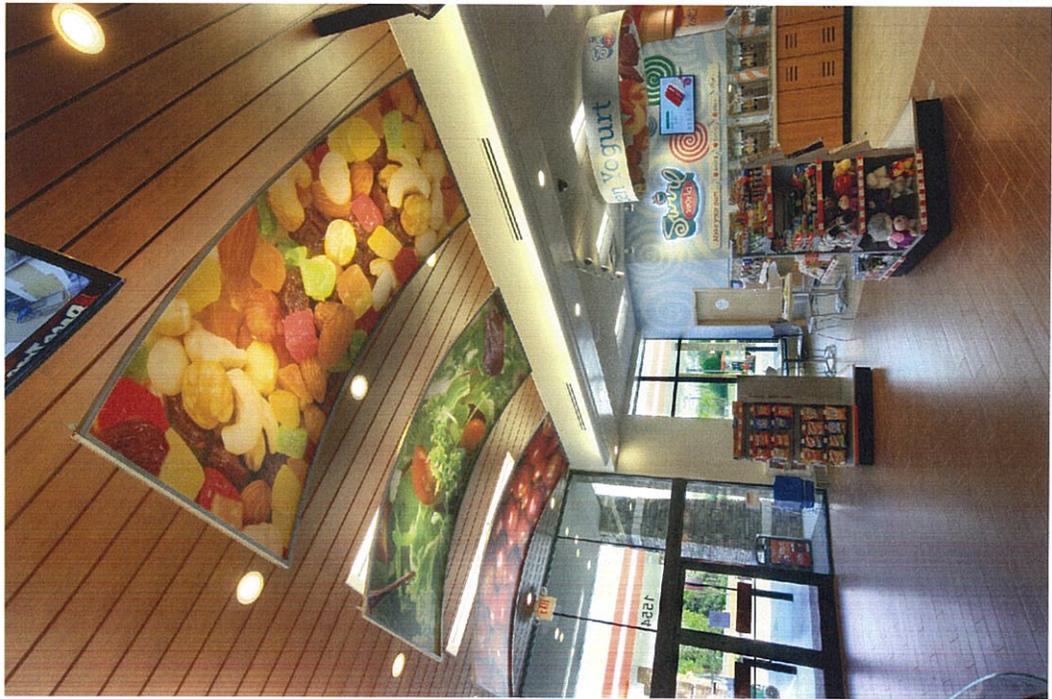
1. This parcel is located in the Lake Allatoona Watershed within 1500 feet of the lake. As noted in the Downstream Conditions Comments a pre- and post-development sediment survey will be required for this project. Also, input from the Lake Allatoona Preservation Authority will be required due to the potential stormwater quantity and quality impacts to the lake.
2. An oil/water separator will be required to capture runoff from the fueling bay and a Spill Prevention Plan provided at Plan Review.
3. An overall site plan should be provided to address development of the remainder of the tract. The proposed RaceTrac layout is very pavement intensive and must be revised at Plan Review to provide more efficient parking and less pavement to reduce runoff and pollution generation.



Proposed Neighborhood Market









RaceTrac

