

17-PC-06-21

**CITY OF HAPEVILLE
COMMUNITY SERVICE DEPARTMENT
PLANNING COMMISSION APPLICATION**

Name of Applicant RACE TRAC PETROLEUM, INC. - BRIAN THOMAS

Mailing Address 3225 CUMBERLAND BLVD

Telephone _____ Mobile _____

Email _____

Property Owner (s) CITY OF ATLANTA

Mailing Address _____

Telephone _____ Mobile _____

Address/Location of Property: SWC OF VIRGINIA AVE. and AIRPORT CONNECTOR

Parcel I.D. # **(INFORMATION MUST BE PROVIDED):** 14-0127-LL1248, 14-0127-LL0877

Present Zoning Classification: C-2

Present Land Use: _____

Please check the following as it applies to this application:

☒ Site Plan Review _____ Temporary Use Permit

☒ Conditional Use Permit

_____ Other (Please State) _____

I hereby make application to the City of Hapeville, Georgia for the above referenced property. I do hereby swear or affirm that the information provided here and above is true, complete and accurate, and I understand that any inaccuracies may be considered just cause for invalidation of this application and any action taken on this application. I understand that the City of Hapeville, Georgia, reserves the right to enforce any and all ordinances regardless of any action or approval on this application. I further understand that it is my/our responsibility to conform with all of City of Hapeville's Ordinances in full. I hereby acknowledge that all requirements of the City of Hapeville shall be adhered too. I can read and write the English language and/or this document has been read and explained to me and I have full and voluntarily completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville, Georgia pursuant to O.C.G.A. 16-10-20 and I may be prosecuted for a violation thereof.

Brian Thomas
Applicant's signature

Date: May 8, 2017

Sworn to and subscribed before me

This 8th day of May, 2017.

Diane L Wiles
Notary Public

My commission expires: 8/23/17



**CITY OF HAPEVILLE
COMMUNITY SERVICE DEPARTMENT
PLANNING COMMISSION APPLICATION**

AUTHORIZATION OF PROPERTY OWNER

I CERTIFY THAT THE CITY OF ATLANTA IS THE OWNER OF THE PROPERTY ADDRESS AT:

Tax Parcel ID 14-0127 LL1248, Parcel 5 and Tract 3 of Land Lot 127 located at the intersection of Virginia Avenue and the Airport Connector as more specifically set forth in the plat map and legal description on Exhibit "A" which is attached hereto and made a part of this authorization.
City of Hapeville, County of Fulton, State of Georgia

WHICH IS THE SUBJECT MATTER OF THIS APPLICATION. I AUTHORIZE THE APPLICANT NAMED BELOW TO ACT AS THE APPLICANT IN THE PURSUIT OF THIS APPLICATION FOR PLANNING COMMISSION REVIEW.

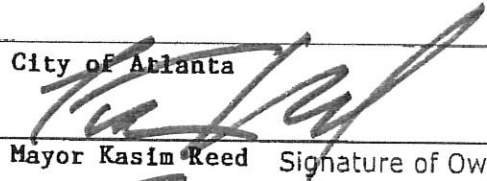
Name of Applicant:

Address of Applicant:

RaceTrac Petroleum/Brian Thornton

Telephone of Applicant:

City of Atlanta


Mayor Kasim Reed Signature of Owner

KASIM REED
Print Name of Owner

Personally Appeared Before Me this 10th day of May, 2017.


Notary Public

WILSON BROCK & IRBY, L.L.C.

ATTORNEYS AT LAW

OVERLOOK I, SUITE 700
2849 PACES FERRY ROAD
ATLANTA, GEORGIA 30339
WWW.WBILLEGAL.COM

LARRY M. DINGLE
LDINGE@WBILLEGAL.COM
DIRECT DIAL: 770/803-3704

TELEPHONE
(404) 853-5050
FACSIMILE
(404) 853-1812

May 12, 2017

VIA HAND DELIVERY

Hapeville City Council
C/o Adrienne Senter
Hapeville Planning and Zoning Division
3468 N. Fulton Avenue
Hapeville, GA 30354

RE: Letter of Necessity for Application by RaceTrac Petroleum, Inc. ("RaceTrac") for a Conditional Use Permit for a Convenience Market/Fueling Facility on a 2.625-Acre Parcel of Land at the Southwest Corner of Virginia Avenue and the Airport Connector (Parcel No. 14-0127 LL1248) (the "Subject Site").

Dear Council Members:

My firm represents RaceTrac, an Atlanta-based company that operates a multi-state network of convenience markets and fueling facilities. RaceTrac distinguishes itself from its competitors by providing its customers with a top-quality experience from the moment they enter a RaceTrac property to the moment they leave. RaceTrac has identified the Subject Site as an excellent potential location for one of its new generation market and fueling facilities.

While most convenience stores are simply gas stations that happen to sell a few convenience items, RaceTrac's newest generation stores turn that paradigm on its head by serving as upscale convenience markets that also happen to sell fuel. RaceTrac's newest generation of stores feature more than 4,000 items of merchandise, with allows customers to select from an exceptionally wide range of food, household, and convenience items. RaceTrac also offers a comprehensive range of household, convenience, and food items, which include salads, sandwiches, fresh fruits, pastries, as well as breakfast offerings. RaceTrac's current generation market facilities also offer indoor and outdoor seating with free Wi-Fi service. For these reasons, RaceTrac stores are an asset to the communities they are located in.

RaceTrac's 'more than a service station' philosophy can be seen in the aesthetic details of the market it proposes for the Subject Site. As shown in the enclosed building elevations, RaceTrac's proposed market features articulated facades, varied parapet heights, and high quality brick and stacked stone cladding materials. Expansive glass areas provide generous sightlines into the store and enhance the customer experience with copious amounts of natural light. High ceilings will further reinforce the spaciousness of the market's interior space. RaceTrac's use of high quality materials, articulated also extends to the customer fueling area, which will feature brick and stacked stone columns.

WILSON BROCK & IRBY, L.L.C.

RACETRAC CONDITIONAL USE PERMIT LETTER OF INTENT

May 12, 2017

Page 2

The Subject Site is currently zoned C-2, which requires the issuance of a conditional use permit for convenience markets with fueling facilities. To facilitate its development plan, RaceTrac respectfully requests a condition use permit for its proposed convenience market. RaceTrac's application meets the city's prescribed rezoning standards, as set forth in § 93-3.2-5(a) of the zoning ordinance, as follows:

- (1) RaceTrac's Proposed Convenience Market Will Positively Impact the Use and Development of Adjacent Properties and the Surrounding Area.

RaceTrac's Proposed Convenience Market is Completely Compatible with Adjacent Properties and Other Nearby Land Uses.

RaceTrac's proposed market and fueling facility should reinforce the high-quality aesthetics of the surrounding area. The proposed facility will include high quality brick and stacked stone materials, as well as other high quality design details that are not usually included in convenience markets. Therefore, the appearance of the facility will project an upscale image to persons in the surrounding area, which should in turn reinforce this community's desirability.

RaceTrac's proposed convenience market would serve as an amenity to the surrounding area. While most convenience stores are gas stations that happen to sell food, RaceTrac's current generation of stores turns that paradigm on its head by serving as an upscale convenience market that happens to sell fuel. The grocery and retail area in the proposed store will be larger than in previous generation RaceTrac stores; and the store will include a fresh food service area, upscale coffee service that includes hot and cold drinks, and an outdoor dining area.

The Subject Site is bounded by Virginia Avenue to the north, the Airport Connector (I-85 access ramps) to the east, and Airport Loop Road (fka South Outer Loop Road) to the south. The Subject Site immediately abuts a La Quinta Inn & Suites along its western boundary. Flight Safety International, Inc. operates a flight attendant training facility across Airport Loop Road from the Subject Site to the south. The properties across Virginia Avenue from the Subject Site to the north are developed with retail facilities. Delta Airlines' corporate headquarters campus is across the Airport Connector to the east. All of these neighboring facilities will benefit from having RaceTrac's proposed convenience market within easy walking distance.

- (2) The Subject Site Has More Than Enough Capacity to Accommodate RaceTrac's Proposed Market and Satisfy the Zoning Ordinance's Dimensional Requirements.

RaceTrac has submitted a site plan with this conditional use permit application depicting its proposed convenience market. As the site plan shows, the Subject Site's lot area is more than sufficient to accommodate RaceTrac's proposed convenience market without the need for variances.

WILSON BROCK & IRBY, L.L.C.

RACETRAC CONDITIONAL USE PERMIT LETTER OF INTENT

May 12, 2017

Page 3

(3) RaceTrac's Proposed Convenience Market will not Appreciably Impact Local Infrastructure and Adjoining Development.

Because of surrounding high density development, local transportation and utility infrastructure networks in the vicinity of the Subject Site are already robust. Given the nature of the proposed use, the proposed market will not be an independent trip destination. It will instead capture business from people who are already in the area. Therefore, the proposed market should not have an appreciable impact on local transportation and utility infrastructure networks.

The only property that directly adjoins the Subject Site is developed with a six-story hotel, which is a far more intense land use than RaceTrac's proposed convenience market. Further, the portion of the hotel site that is closest to the Subject Site is developed with the hotel's parking lot, with the hotel building being located over 200 feet from the Subject Site's boundary line. Therefore, restrictions on operations, protective buffering and screening, and limitations on lighting and signage are not necessary.

(4) RaceTrac's Proposed Convenience Market Presents No Nuisance or Hazardous Characteristics That Could Impact Adjoining and Nearby Properties.

As explained above, the Subject Site is located across the street from retail development on Virginia Avenue, a corporate campus on the other side of the I-85 access ramps, and a flight attendant training facility on Airport Loop Road. The proposed market is consistent with the retail character of development along this segment of Virginia Avenue. The proposed market is a less intense land use than the adjoining six-story hotel, and the large separation between the hotel building and the market lessens any potential impact RaceTrac could have on the hotel. While the Subject Site is located across the street from Delta Airlines' corporate campus, the nearest corporate building is more than 500 feet away from the Subject Site (as measured on Fulton County's online tax maps). Therefore, the proposed market presents no nuisance or hazardous characteristics that could impact adjoining and nearby properties.

(5) RaceTrac's Requested Conditional Use Will Conform to All Other Requirements of the Ordinance.

RaceTrac's proposed market will conform to all other requirements of the zoning ordinance. Therefore, we are not requesting any variance relief in conjunction with this application.

WILSON BROCK & IRBY, L.L.C.

RACETRAC CONDITIONAL USE PERMIT LETTER OF INTENT

May 12, 2017

Page 4

(6) Constitutional Objections.

Georgia courts have long held that a zoning applicant must present any potential constitutional objections to the local government during the zoning review process. Applicants who fail to do so substantially deprive themselves of a legal basis to appeal adverse zoning decisions.¹ Therefore, to satisfy requirements of Georgia law, RaceTrac respectfully advises the City of Hapeville of its constitutional objections.

RaceTrac has demonstrated its satisfaction of the city's approval standards for its requested conditional use permit. Therefore, the denial of RaceTrac's application (or the approval of any lesser relief than requested) would violate RaceTrac's constitutionally protected rights to due process of law and equal protection under the laws. Such an unconstitutional decision by the city would also constitute an arbitrary and capricious act without any rational basis, as well as a manifest abuse of its discretion.

For all of the foregoing reasons, RaceTrac respectfully requests the approval of its application for a conditional use permit. Please let me know if I may provide you with any additional information, or clarify anything in this letter.

Please let me know if you have any questions.

Sincerely,

WILSON BROCK & IRBY, L.L.C.

Larry M. Dingle

BT Revision
HB

By: Larry M. Dingle, Esq.
Attorneys for RaceTrac Petroleum, Inc.

cc: Mr. Daniel Brown, RaceTrac Petroleum, Inc.

¹ *DeKalb County v. Bembry*, 252 Ga. 510, 314 S.E.2d 900 (1984) (Held that the trial court erred in failing to grant summary judgment to DeKalb County because the constitutional attacks on the subject property's zoning were not first raised before the County Commission).

EXHIBIT "A"

Legal Description of Contract Property

Seller: Land Lot 127, 14th District, Fulton County, Georgia

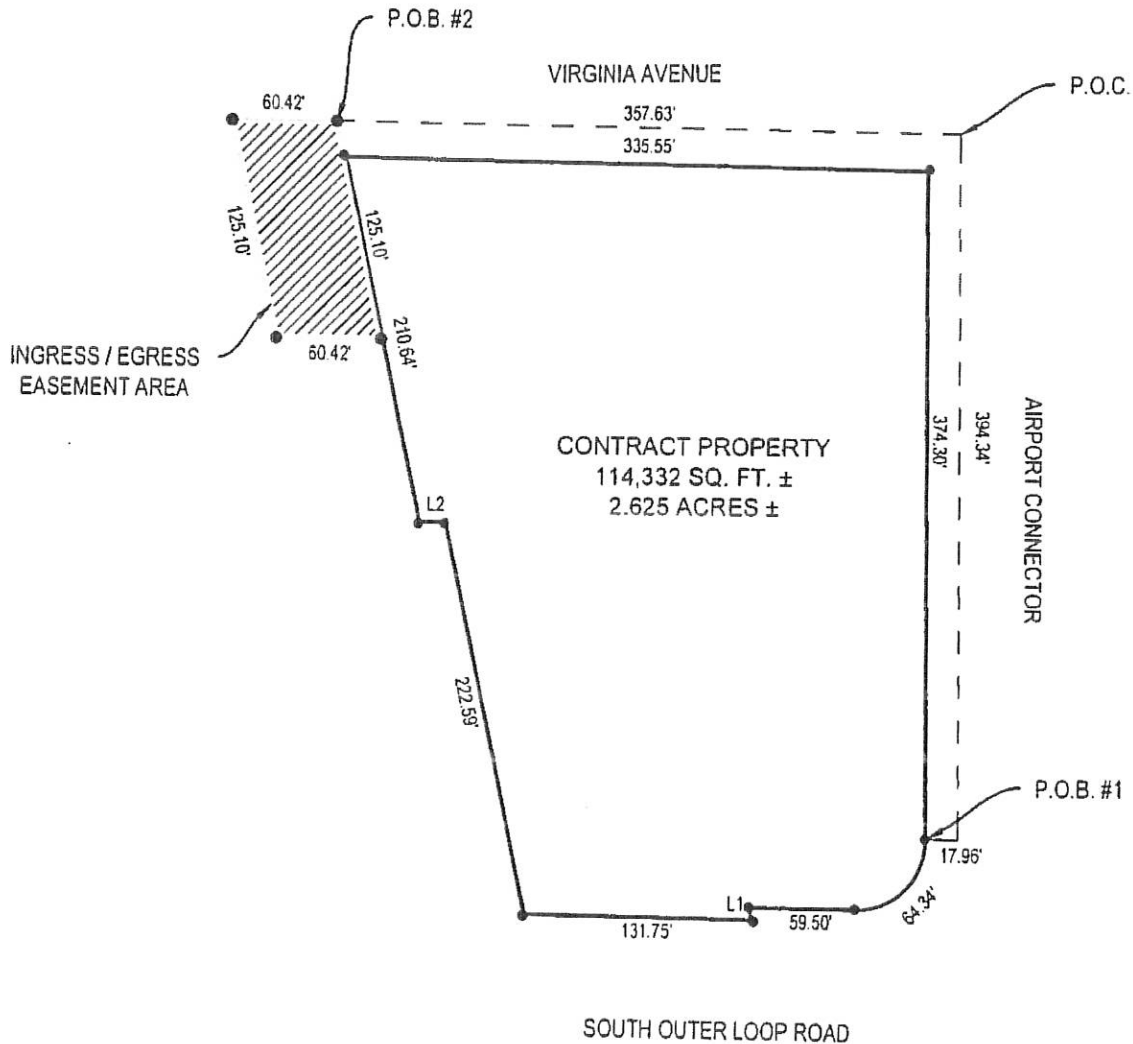
Purchaser: Del Lago Ventures, Inc

Contract Property Location: Southwest Corner of Virginia Avenue & Airport Connector, Hapeville, Fulton County, Georgia

The Contract Property, as outlined in red and made a part hereof, located in Hapeville, Georgia and being a grouping of Parcel ID # 14 0127 LL1248, Parcel 5 and Tract 3 of Land Lot 127, and being more particularly described as follows;

To find the POINT OF BEGINNING, commence at a point located at the southwest corner of the southerly right of way line of Virginia Ave and the westerly right of way line of Airport Connector; thence run in a southerly direction along the westerly right of way of Airport Connector a distance of 394.34 feet to a point; thence run in a westerly direction, leaving said right of way line, for a distance of 17.96 feet to a point of curvature concave northwesterly and having a radius of 40 feet known as the POINT OF BEGINNING (P.O.B. #1); thence run in the south easterly direction along the arc of said curve for a distance of 64.34 feet; thence run in a westerly direction for a distance of 59.50 feet to a point; thence run in a south easterly direction for a distance of 7.05 feet to a point, thence run in a westerly direction for a distance of 131.75 feet to a point; thence run in a north westerly direction for a distance of 222.59 feet to a point; thence run in a westerly direction for a distance of 15.23 feet to a point; thence run in a north westerly direction for a distance of 210.64 feet to a point; thence run in a easterly direction along the right of way line of Virginia Avenue for a distance of 335.55 feet to a point; thence run in a southerly direction, leaving said right of way line and following along the Airport Connector right of way line for a distance of 374.30 feet to the POINT OF BEGINNING (P.O.B. #1)

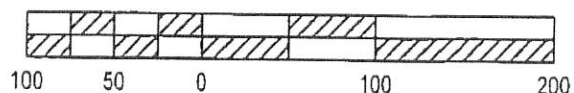
Contains 114,332 square feet or 2.625 acres, more or less. All being subject to a current and accurate survey.



Line Table	
Curve #	Length
L1	7.05'
L2	15.23'



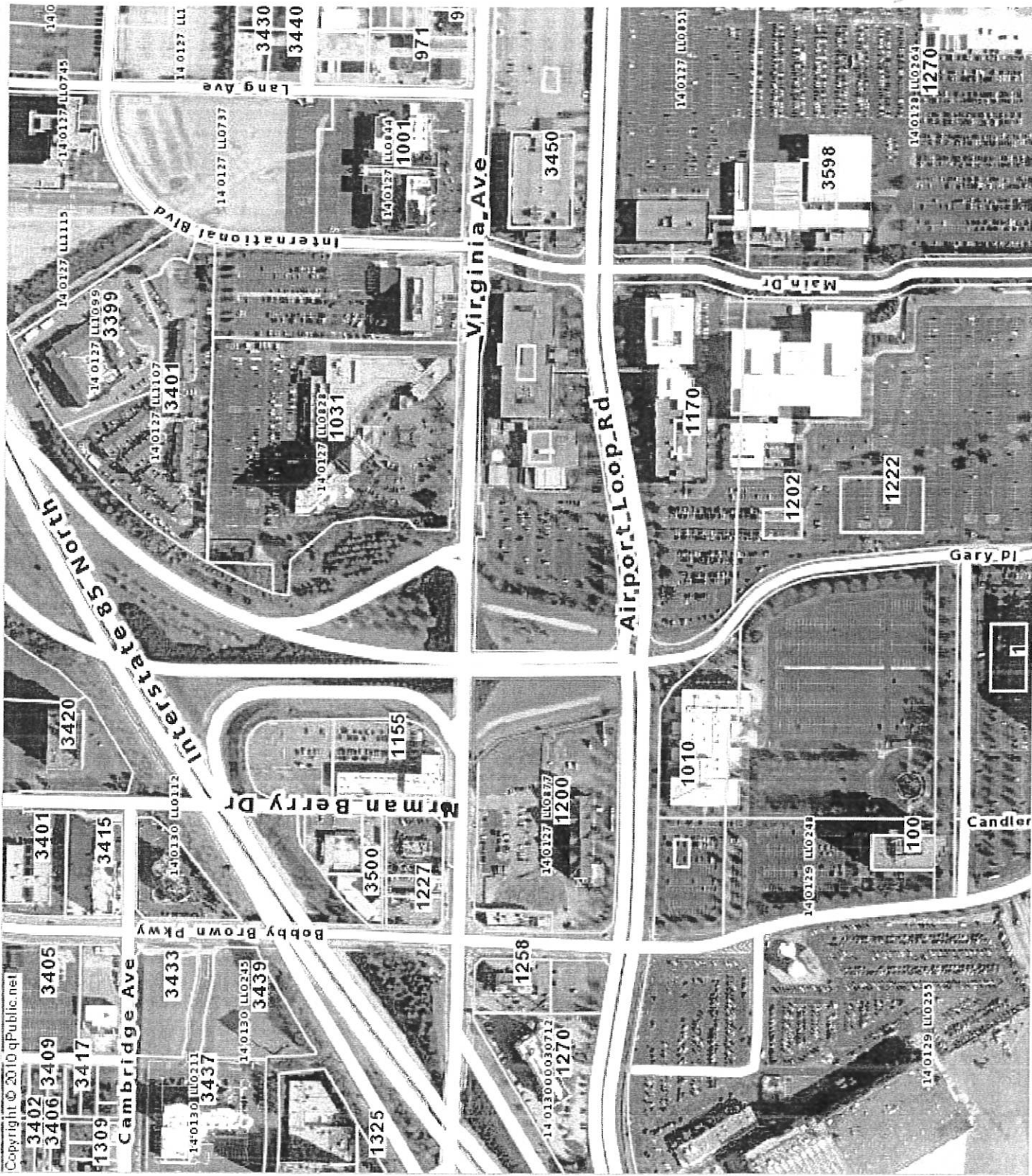
GRAPHIC SCALE IN FEET
1" = 100'

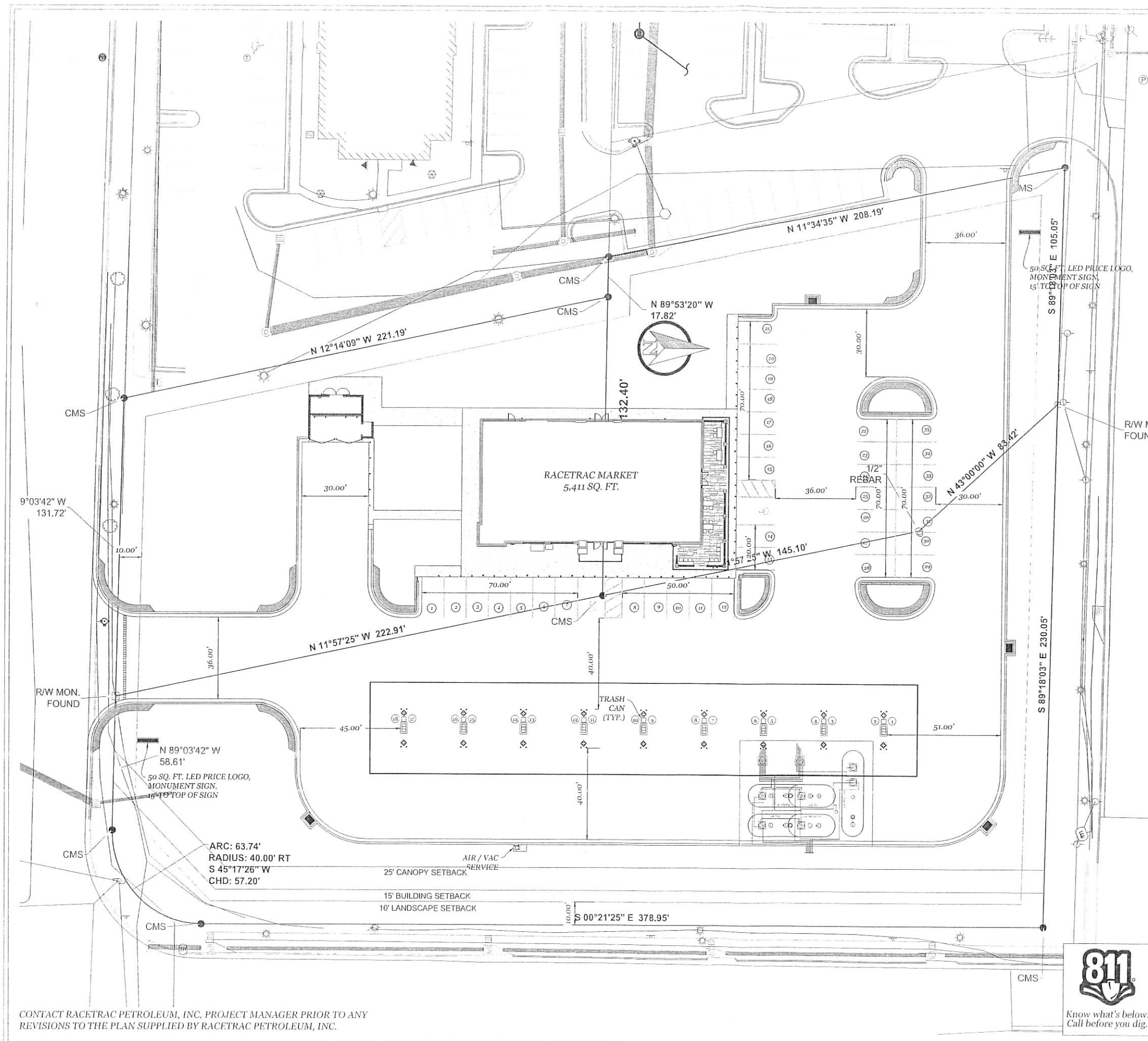


Search
Sales

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Show Scale





CONTACT RACETRAC PETROLEUM, INC. PROJECT MANAGER PRIOR TO ANY REVISIONS TO THE PLAN SUPPLIED BY RACETRAC PETROLEUM, INC.

ESTIMATED COST ANALYSIS	
PROPERTY:	
DEVELOPMENT (ENR/SURVEY):	
STANDARD BUILDING COST:	
STANDARD SITE COST:	
ROW IMPROVEMENT COST:	
TOTAL COST:	

THESE PLANS ARE
SUBMITTED TO FEDERAL
AGENCIES FOR REVIEW.
ANY USE OF NAME
WITHOUT THE
EXPRESSED WRITTEN
PERMISSION OF
RACETRAC PETROLEUM, INC. IS
PROHIBITED.

RaceTrac

RACETRAC PETROLEUM, INC.
3225 CUMBERLAND BOULEVARD
SUITE 100 ATLANTA, GA 30339
(770) 431-7000

SITE PLAN
RACETRAC MARKET
SWC Virginia Ave @ Airport
Hapeville, Georgia
Fulton County

DRAWN BY: KHEI
DATE: 09/16/2017
SCALE: 1" = 20'
DRAWING NAME:
RT1278 2 SH 12 01.dwg

1
SHEET NO. VERSION

NO.
DATE



PLANNER'S REPORT

To: Adrienne Senter
From: Lynn M. Patterson
RE: Conditional Use Permit for RaceTrac Convenience Market/Fueling Facility
on Parcel ID 14-0127 LL1248 and Parcel ID 14-0127 LL0877
Date: June 7, 2017

BACKGROUND

The City of Hapeville received a request for a conditional use permit from RaceTrac Petroleum, Inc. to construct and operate a convenience market/fueling facility on Parcel ID 14-017 LL1248 and Parcel ID 14-0127 LL0877 (southwest corner of Virginia Avenue and Airport Connector). In addition to the 5,411 sf facility will offer a fresh food service area, upscale coffee service that includes hot and cold drinks and an outdoor dining area.

The property is zoned C-2, General Commercial which allows for food stores and the gasoline station requires a conditional use permit.

The gasoline station and convenience market will be open 24 hours a day, 7 days per week. The site plan shows approximately 29 parking spaces and 1 including handicapped parking spaces.

CODE

Sec. 93-14.3. - Permitted uses.

The following are permitted within the C-2 zone:

(19) Food Stores

Sec. 93-14-5 - Conditional uses.

(4) Gasoline service stations (outside use), not including outside repair of automobiles or outside storage of any tires batteries, new or used automobile parts or other merchandise not necessary for the sale of gasoline and motor oil.

a. Access drives shall be clearly defined utilizing curbing.

Standard met

b. Vehicle services shall be limited to oil changes, lubrication, tire repair, tune-ups and other minor services. All such operations shall be performed within an enclosed building.

N/A

c. Storage of vehicles which are on the premises for the above repairs shall be limited to two per service bay.

N/A

d. Pumps shall be setback a minimum distance of 25 feet from the street right-of-way.

Site plan shows 40'.

e. Stations providing car washing as an accessory use shall ensure that all wash water is contained on the premises.

N/A

f. A 30-foot landscaped buffer shall be maintained along the boundary of any residential property. Such buffer shall consist of species and plant sizes sufficient to yield a substantial visual screen throughout the year. The standards found in section 93-23-18 regarding landscape requirements for vehicular use areas shall be applicable to these conditional uses.

N/A

g. No driveway shall be located within 25 feet of any residential property.

N/A

h. All site lighting shall be directed inward and toward the ground to prevent glare on public rights-of-way and adjoining properties.

Lighting plan not yet submitted.

Sec. 93-25-6. - Standards of review.

(a) In ruling /on any matter herein in which the exercise of discretion is required, or in ruling upon any application for zoning map amendment, the administrative official or legislative body shall act in the best interest of the health, safety, morals, and general welfare of the city. In doing so, they will consider one or more of the following factors as they may be relevant to the application:

(1) The existing land use pattern;

The existing land use is commercial.

(2) The possible creation of an isolated district unrelated to adjacent and nearby districts;

This use will not create an isolated district unrelated to adjacent and nearby districts.

(3) The population density pattern and possible increase or overtaxing of the load one public facilities including, but not limited to, schools, utilities, and streets;

The impact to streets is a concern. Staff recommends the applicant conduct a traffic study to gauge the impact on Virginia Avenue and Norman Berry. Upon receipt of the traffic study, the City will work with the applicant to identify any issues.

(4) The cost of the city and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety measures;

This is to be determined based upon the traffic study and any potential remedies.

(5) The possible impact on the environment, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quantity;

The potential impact to the environment is related to the gasoline service. Contamination of the soil and water from spillage or leakage could result. Air quality could be locally impacted by idling vehicles and gas station emissions.

(6) Whether the proposed zoning map amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations;

There is no indication the use of the property as a convenience market/fueling facility will adversely affect the value or development of adjacent properties.

(7) Whether there are substantial reasons why the property cannot be used in accordance with existing regulations;

There are no reasons the property cannot be used in accordance with existing regulations.

(8) The aesthetic effect of existing and future use of the property as it relates to the surrounding area;

There is no indication the use of property as a convenience store/fueling facility should adversely affect the aesthetics of the property and the surrounding area.

(9) The extent to which the proposed zoning map amendment is consistent with the land use plan;

The conditional use permit requested is consistent with the future land use map as a commercial use.

(10) The possible effects of the proposed zoning map amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community;

This use would not impact the character of the area.

(11) The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these zoning regulations;

The use of the property as a convenience market/fueling facility is consistent with the overall zoning scheme.

(12) Applications for a zoning map amendment which do not contain specific site plans carry a rebuttable presumption that such rezoning shall adversely affect the zoning scheme;

A site plan has been provided.

(13) The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight;

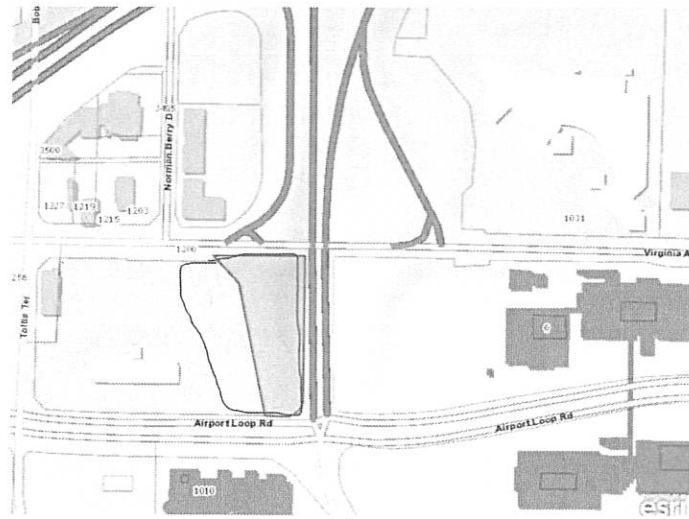
N/A.

(14) In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.

N/A

RECOMMENDATION

The proposed use of the property as a convenience store/fueling facility is consistent with the C-2 zoning district. The applicant should address traffic and environmental concerns with the site plan and during permitting. The application is recommended for approval.



Proposed Location



FIRE DEPARTMENT

DAVID BLOODWORTH
FIRE CHIEF

To: Adrienne Senter

From: Brian Eskew, Fire Marshal

Re: 1180 Virginia Ave.

Date: June 1, 2017

I do not see any impact on the Fire Department for this project. If you should need any more information please let me know. Thanks.