

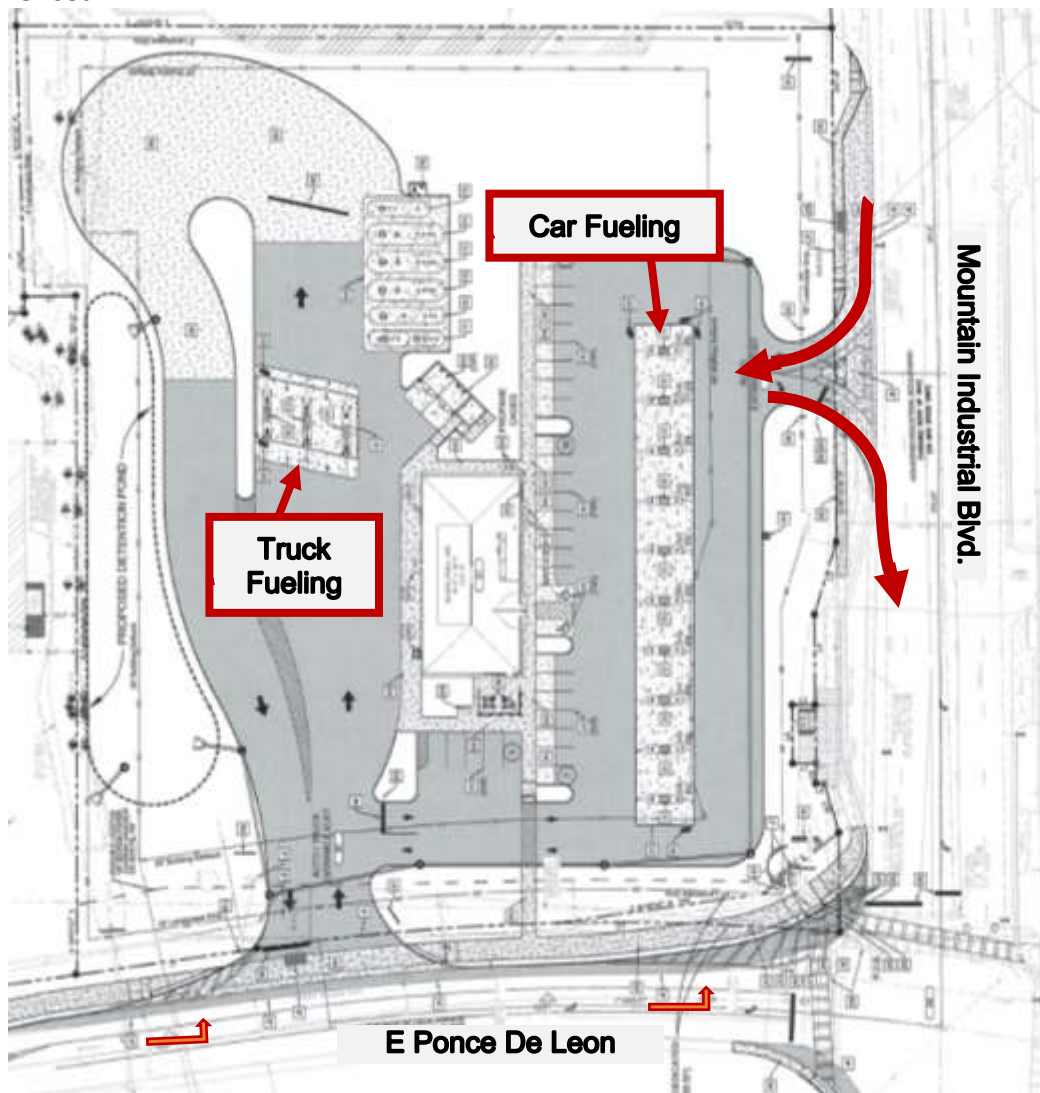


Land Use Petitions: SLUP-17-004 and 17-005
Date of Staff Recommendation Preparation: December 21, 2017
Community Council: August 9, 2017
Planning Commission: December 28, 2017
Mayor and City Council, 1st Read: January 8, 2018
Mayor and City Council, 2nd Read: January 22, 2018

PROJECT LOCATION:	5448 East Ponce De Leon Avenue, Tucker, GA
DISTRICT//LANDLOT(S):	Land District 18, Land Lot 139
ACREAGE:	3.72 acres
EXISTING ZONING	C-1 (Local Commercial)
EXISTING LAND USE	Vacant
FUTURE LAND USE MAP DESIGNATION:	Light Industrial (LIND)
OVERLAY DISTRICT:	Mountain Industrial Overlay District
APPLICANT:	McBride Dale Clarion
OWNER:	Stone Mountain Industrial Park
PROPOSED DEVELOPMENT:	Applicant intends to build a convenience store. A SLUP is required for both the proposed fuel pumps (SLUP-17-004) and alcohol sales (SLUP-17-005); concurrent variances are being requested to allow (1) increased canopy height, (2) outdoor ice machine/propane display.
STAFF RECOMMENDATION:	Approval of SLUP-17-004 (Fuel Pumps) Approval of SLUP-17-005 (Alcohol Sales) Denial VS-17-004-01 Denial VS-17-004-02

PROJECT DATA

The applicant has submitted two applications for Special Land Use Permits (SLUP) for the 3.72+/- acre subject property located at 5448 East Ponce De Leon Avenue (the intersection of East Ponce De Leon and Mountain Industrial Boulevard). The subject site is located approximately 3,600 feet from the Stone Mountain Freeway (U.S. 78) interchange. The first application, SLUP-17-004, is for development of fuel pumps. The second application, SLUP-17-005, is for alcohol sales. Two concurrent variances are also being requested to allow an increased canopy height from 20 feet to 21 feet (VS-17-004-01), and outdoor ice machine and an outdoor propane display (VS-17-004-02). The 3.72-acre site is currently vacant and fenced.



The convenience store is proposed to be a 4,608 square feet air-conditioned space. The applicant requests a 24-hour operation of the convenience store and fuel pumps with alcohol sale hours restricted to the hours imposed by the City of Tucker Alcohol Ordinance. The project proposes 10 dispenser aisles (20 fuel pumps) for cars located on the eastern portion of the parcel fronting Mountain Industrial Boulevard. Cars will enter via right-in/right-out driveway vehicular from Mountain Industrial Boulevard. Secondary vehicular access for cars is shared with trucks and located on E. Ponce De Leon. The western

portion of the site is for 18-wheel (and similar) truck fueling. Truck access is restricted to entrance and egress from E. Ponce De Leon Avenue. Trucks will not be allowed to be parked overnight.

The applicant submitted the initial application on July 24, 2017. At that time, the applicant proposed inter-parcel access via a shared driveway with the property to the north. However, the developer was unable to secure the cross-access easement with the adjacent property owner. The applicant continued to work with the adjacent property owner, but it was not possible for the property owners to come to an agreement to joint access. Therefore, the applicant began to revise the site plan because the cross-access easement was no longer likely to be feasible.

The applicant submitted a revision site plan, submitted on October 24, 2017 to staff. Staff had several concerns regarding safety tied to the land development regulations including spacing between curb cuts, the number of curb cuts, and the necessity of a left-turn lane along East Ponce De Leon Avenue. The revised site plan required additional administrative variances which staff would not have been able to support. The applicant met with staff through a couple iterations of the site plan, in order to revise the site plan to locate all access points on the site and be compliant with the land development regulations.

The applicant submitted a 3rd revised site plan on November 29, 2017. Additional modifications include having right-in/right-out access points from Mountain Industrial Boulevard, shifting the Mountain Industrial Boulevard and East Ponce De Leon Avenue access points further from existing curb cuts and removing curb cuts that were closer to the intersection of East Ponce De Leon and Mountain Industrial Boulevard. Additionally, truck ingress and egress are restricted to East Ponce De Leon.

USE ANALYSIS AND DEVELOPMENT PERMISSIONS

The subject property is located within the Mountain Industrial Boulevard Overlay District. The intent of the Mountain Industrial Overlay district is to preserve and enhance the long-term economic viability of the Mountain Industrial Boulevard corridor by encouraging investment that increases the tax base and provides employment opportunities to the citizens of the City of Tucker; to improve the visual appearance and increase property values within the corridor; allow flexibility in development standards in order to encourage the design of innovative development projects that set high standards for landscaping, green space, urban design, and public amenities; and promote uniform and visually aesthetic architectural features which serve to unify the distinctive visual quality of the corridor.

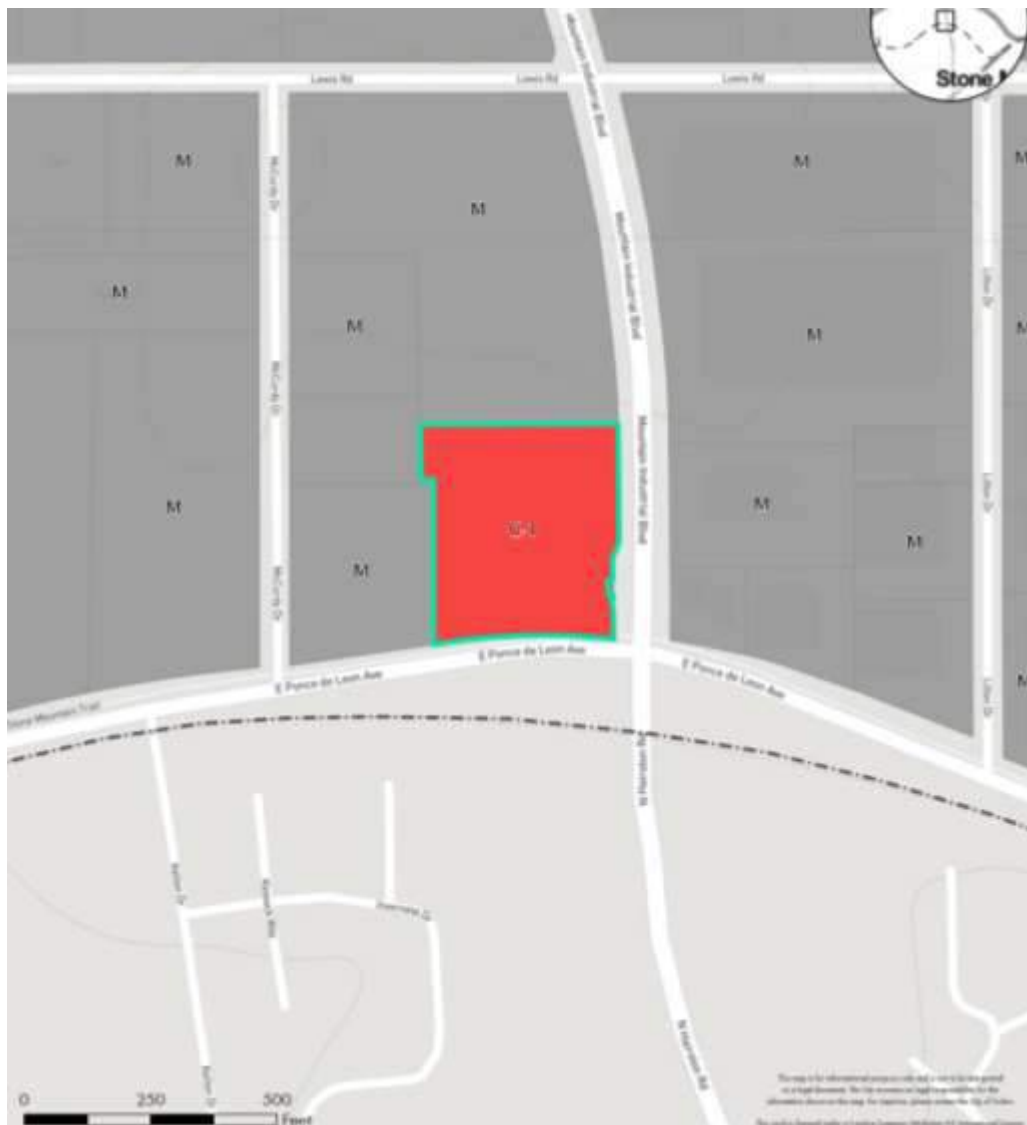
The purpose and intent section of the C-1 zoning district (Article 2.26.1) indicates in part that the C-1 district is established to allow for “uses which are designed to serve the convenience shopping and service needs of neighborhoods.” The C-1 zoning district allows for “fuel pumps” and “alcohol sales” only as a special use (Table 4-1 zoning ordinance). The intent of the City of Tucker Zoning Ordinance is that the proposed uses be determined on a case-by-case specific basis ensure compatibility with the surrounding area including environmental impacts, visual and infrastructure impacts.

COMMUNITY COUNCIL REVIEW

The Community Council reviewed the proposed application on August 9, 2017. Community Council discussion included discussion regarding trip generation counts, no overnight parking, the number of employees, the hours of operation, and the Stone Mountain PATH trail. Community Council recommended reducing the number of curb cuts to lessen the impact to the Stone Mountain PATH trail. As is standard, the Community Council did not make a recommendation of approval or denial.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Overlay District	Existing Land Use
Adjacent: North	M (Light Industrial)	Mountain Industrial Boulevard Overlay	Wincup Foam Cups (Manufacturing)
Adjacent: East (across Mountain Industrial)	M (Light Industrial)	Mountain Industrial Boulevard Overlay	Texaco with Convenience food store; Car Store
Outside City Limits: (South across Ponce De Leon Ave. and railroad)	C-1 (Local Commercial)	Mountain Industrial Boulevard Overlay	iPromo Network (Marketing, branding, promotion)
Outside City Limits: (South across Ponce De Leon Ave. and railroad)	M (Light Industrial)	Mountain Industrial Boulevard Overlay	Electric Substation, and Large Vacant Culvert
Adjacent: West	M (Light Industrial)	Mountain Industrial Boulevard Overlay	Dah Sing Noodle (manufacturing and importing activities)



Zoning Exhibits showing surrounding land uses.

SLUP-17-004 FUEL PUMPS

CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT

Criteria (standards and factors) for special land use decisions are provided in Section 7.4.6 of the City of Tucker Zoning Ordinance. Supplemental use regulations are outlined in Article 4, Division 2 of the zoning ordinance. The applicant is required to address these criteria (see application); below are staff’s findings which are independent of the applicant’s responses to these criteria.

A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

The site size is approximately 3.72 acres. The site is relatively small for the scope of the proposed gas station; however, it meets the development standards for the zoning district, except for the canopy height, which the applicant has applied for a concurrent variance to vary.

Development Standard	Specific Requirement	Compliance Demonstrated by Site Plan Submitted?
Front building setback	Minimum, 60	Yes – complies
Side and rear setbacks	50 feet	Yes – complies
Maximum building height	Canopy height may not exceed 20 feet. Applicant seeks relief through variance for one additional foot.	No- proposes a 21-foot high canopy over fuel stations
Landscape strip (Sec. 5.4.3, Table 5.1)	Minimum Total Width (Landscape/Sidewalk) on Arterial/Collector = 16 feet, including 10 ft. landscape strip / 6 ft. sidewalk	Yes – complies
Minimum off-street parking (Table 6.2)	Min.: One (1) space per five hundred (500) square feet of floor area—10 spaces. Max.: One (1) space per one hundred fifty (150) square feet of floor area—31 spaces.	Yes -- complies
Architectural requirements (visible building facades) (Sec. 3.35.17)	Brick, stone, or cement stucco or other equivalents	Need material specifications to determine compliance at the time of Site & Land Development Review.
Maximum Lot Coverage	80%	Yes – complies

The site plan and application do not demonstrate compliance with all of the standards referenced above (i.e., does not meet all requirements). The applicant seeks a concurrent variance from the canopy height to allow a 21-foot canopy over the fuel pumps. Additional items, including exterior building materials will be determined at the time of Site & Land Development Review after the submittal for the building permit.

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

From a land use standpoint, the proposed gas station is compatible with the land uses and development of adjacent properties as it is surrounded on three sides by industrial and commercial properties. The fueling station is also an accessory use to an existing truck and logistics corridor. The parcel is designated as a Light Industrial Character Area as are the properties to the north, east and west. Further, the zoning of the adjacent parcels are designated M (Light Industrial).

There is residential \pm 300 feet due south; however, the residential is located across E. Ponce De Leon Avenue and railroad tracks, and outside the city limits. The City of Tucker boundary runs parallel to the south of the site; therefore, everything across E. Ponce De Leon Avenue is unincorporated DeKalb County.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. There will be no impact on public school facilities.

Stormwater management. The site plan depicts an above-ground stormwater retention area.

Water and sewer. Water and sewer approval is required by the DeKalb County Department of Watershed Management. Approval of the SLUP shall be conditional to Watershed approval.

D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

East Ponce De Leon has a \pm 90 foot right of way. It is not considered sufficient to accommodate the development as proposed. If approved, dedication of additional right of way is recommended to accommodate additional road improvements needed to serve the proposed development, including a left turn lane into the gas station from E. Ponce De Leon Avenue.

Curb cut locations shall meet the minimum requirements for spacing and sight distance and are subject to approval by the City of Tucker and DeKalb County. If approved, the Land Development Engineer has recommended several conditions of approval pertaining to public street access which are included in this report (supports conditional approval).

E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

In terms of development impacts, existing light industrial type land uses would not be adversely affected by the proposed gas station (supports request). If developed in accordance with recommended conditions, land uses along both E. Ponce De Leon Avenue and Mountain Industrial Boulevard will not be adversely affected by the character of vehicles or the volume of

traffic generated by the proposed development (supports conditional approval). Table 5.13 from the *ITE Trip Generation Handbook* assumes approximately 66% of the total generated trips will be passer-by. Estimates for the A.M. Peak shows an increase of 64 net new trips; estimates for the P.M. Peak shows an increase of 75 net new trips.

F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

If developed in accordance with recommended conditions from the City Engineer, the proposed development can meet this standard (supports conditional approval).

G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

The proposed development will not generate excessive noise, nor will it emit smoke, odor, dust or vibration. The proposed use includes diesel truck fueling, which may increase particulate emissions within close proximity to the subject property. However, the surrounded adjacent land uses are light industrial in nature, and surrounded on 3 sides by Light Industrial zoning. Therefore, no adverse impacts on adjoining land uses are anticipated (meets standard).

H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

The proposed gas station and convenience store proposes to be operational 24 hours a day, as it is situated in an industrial area. The property is surrounded by Light Industrial zoning and light industrial uses. Additionally, it is located within 3,100 feet of the Stone Mountain Freeway interchange (meets standard).

DeKalb County SLUP6 studies have shown that a concentration of certain land uses - including alcohol outlets, automobile gas stations, convenience stores, -- negatively impact the public health, safety, welfare, property values, economic development and social vitality of communities and neighborhoods. SLUP6 also found that local governments across the country recognize the negative impacts of such uses and impose additional regulations and distance requirements to mitigate such impacts. However, there is not a proliferation of this use at this location.

I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

If developed in accordance with recommended conditions, land uses along Mountain Industrial Boulevard will not be adversely affected by the manner or operation of the development (supports conditional approval).

J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

The proposed development complies with all underlying zoning district requirements; the proposed development demonstrates substantial compliance with all of the requirements of the Mountain Industrial Overlay District (meets standard). The applicant proposes concrete masonry (quik-brik) on the exterior in compliance with the architectural regulations. The site plan also shows trash dumpsters screened so that such outdoor area cannot be seen from any public right-of-way. Compliance with the Mountain Industrial Overlay district standards assists in improving the property values along the corridor and the visual appearance of the corridor. (supports conditional approval).

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property and the surrounding immediate area is designated Light Industrial on the Future Land Use. The intent of the Light Industrial Character Area is to identify areas that are appropriate for industrial type uses. Primary land uses include light industrial uses, manufacturing, warehouse/distribution, automotive, accessory commercial and community facilities. The proposed development is consistent with and furthers the intent of the adopted comprehensive plan (meets standard).

L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

Not applicable. No transitional buffer zones are required due to the current zoning of surrounding properties (meets standard).

M. Whether or not there is adequate provision of refuse and service areas.

The site plan shows space for a trash receptacle towards the north of the convenience store to serve the facility (meets standard).

N. Whether the length of time for which the special land use permit is granted should be limited in duration.

No limits on the length of time on the special land use permit are recommended, if granted.

O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

The proposed development would result in a building that is setback from the road, with parking in front. It is staff's opinion that the building size, mass, and scale will be appropriate in relation to surrounding land uses (meets standard).

P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties. Therefore, no adverse effects are anticipated (meets standard).

Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

The following supplemental use regulations are applicable: Sec. 4.2.28 (Fuel Pumps, accessory). The applicant's letter of intent provides a detailed analysis of conformance to the fuel pumps regulations in the Tucker zoning ordinance. There are additional criteria that must be considered when fuel pumps are proposed, as enumerated below:

- A. **The primary building (i.e., convenience store or automobile service station) shall conform to all primary building setbacks.** The proposed development meets the development standards for the zoning district pertaining to setback requirements. Proposed development meets the criteria.
- B. **Canopies covering gasoline dispensers shall be set back not less than fifteen (15) feet from all street rights-of-way.** The proposed development shows the canopies setback over 15 feet from the street right-of-way. Proposed development meets the criteria.
- C. **The canopy shall not exceed the height of the principal building, but in no case shall exceed twenty (20) feet in height.** The proposed canopy is 21 feet. The applicant has submitted a concurrent variance to increase the canopy height an additional foot. Proposed development does not meet the criteria.
- D. **The canopy and its columns shall be complementary to the overall color scheme and building materials scheme of the building façade to which the canopy is accessory.** The overall color scheme and building materials will be required to be compliant with the zoning ordinance at the time of Site & Development, before issuance of a building permit.
- E. **Canopy lighting shall not extend beyond the area beneath the canopy and all fixtures shall be recessed, including any fixture or lens. Lighting shall project inward and downward, shall not have any spillover to adjacent properties, and shall cut off no later than thirty (30) minutes after closure of the facility.** The proposed development does not show the lighting scheme; however, this will be a condition of approval. However, in the Statement of Intent the applicant proposes to utilize energy efficient LED lights and to have cut-off light fixtures to reduce glare (while providing safe lighting conditions). Proposed development meets the criteria, with conditions.

F. Automobile service stations with gas sales shall have a capacity to store one (1) car per bay (car area in front of a pump), so as not to interfere with driveway ingress and egress traffic flow. The proposed development has the capacity to store one (1) car per bay in front of the pump. Proposed development meets the criteria.

G. A minimum of thirty (30) feet is required between a property line and the nearest gasoline pump. The proposed development shows the gas pumps setback over 30 feet from the street right-of-way. Proposed development meets the criteria.

R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

The height of the convenience store is one story, reaching 24 feet at the top of the pitched roof. The proposed canopy over the fuel pumps is 21 feet, which will not create a shadow impact on any adjoining lot or building (meets standard).

S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.

There are only two gas stations located within a mile radius (located inside the City of Tucker jurisdiction)– Valero, and the Texaco across the street (appears to meet standard).

T. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.

Mountain Industrial Overlay District. The purposes of the Mountain Industrial Overlay District, among others are to encourage development and redevelopment of properties within the district so as to achieve a more vibrant sense of place; to provide for the development of sidewalks and walkways in order to promote safe and convenient pedestrian access and to reduce dependence on automobile travel; to enhance the long-term economic viability of this portion of Tucker by encouraging new industrial type developments with some accessory commercial. As proposed, the gas station is an allowable use within the Mountain Industrial overlay district. If approved, the design of the building would need to be in character with the overlay district requirements including exterior building materials, creating greater visual appeal of the corridor, and enhancing the distinctive visual quality of the corridor (meets standard). Staff finds the proposed development in compliance with the intent of the Mountain Industrial Overlay district.

Light Industrial Character Area. The intent of the Light Industrial Character Area is to identify areas appropriate for industrial type uses. Primary land uses include light industrial uses, manufacturing, warehouse/distribution, automotive, accessory commercial and community

facilities. The proposed development is consistent with and furthers the intent of the adopted comprehensive plan (meets standard).

CONCLUSION

The proposed accessory use of fuel pumps is complementary to the existing uses along the Mountain Industrial Boulevard corridor and would contribute to the desired mix of a healthy and vibrant corridor and overlay district.

The proposed Special Land Use Permit application is consistent with the comprehensive plan character area, and the zoning ordinance, as the proposed accessory use is consistent with the purposes and intentions of the Light Industrial Character Area and will provide a use that serves the other businesses and continued development of a vibrant industrial corridor.

SLUP-17-005 ALCOHOL SALES

CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT

Criteria (standards and factors) for special land use decisions are provided in Section 7.4.6 of the City of Tucker Zoning Ordinance. Supplemental use regulations are outlined in Article 4, Division 2 of the zoning ordinance. The applicant is required to address these criteria (see application); below are staff’s findings which are independent of the applicant’s responses to these criteria.

A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

The site size is approximately 3.72 acres. The site is adequate for a convenience store with alcohol sales. It meets the development standards for the zoning district, except for the canopy height, which is the subject of the concurrent variance associated with SLUP-17-004 (fuel pumps).

Development Standard	Specific Requirement	Compliance Demonstrated by Site Plan Submitted?
Front building setback	Minimum, 60	Yes – complies
Side and rear setbacks	50 feet	Yes – complies
Landscape strip (Sec. 5.4.3, Table 5.1)	Minimum Total Width (Landscape/Sidewalk) on Arterial/Collector = 16 feet, including 10 ft. landscape strip / 6 ft. sidewalk	Yes – complies
Minimum off-street parking (Table 6.2)	Min.: One (1) space per five hundred (500) square feet of floor area—10 spaces. Max.: One (1) space per one hundred fifty (150) square feet of floor area—31 spaces.	Yes -- complies

Architectural requirements (visible building facades) (Sec. 3.35.17)	Brick, stone, or cement stucco or other equivalents	Need material specifications to determine compliance at the time of Site & Development Review.
Maximum Lot Coverage	80%	Yes – complies

The site plan and application demonstrate compliance with all of the standards referenced above (i.e., meets all requirements). Additional items, including exterior building materials will be determined at the time of Site & Development Review after the submittal for the building permit.

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

From a land use standpoint, the proposed convenience store with alcohol sales may be compatible with the land uses and development of adjacent properties. There is residential ±300 feet due south; however, the residential is located across E. Ponce De Leon Avenue and railroad tracks feet due southwest and outside the city limits. Directly south is a large wooded culvert and an electric substation further south abutting the culvert.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. There will be no impact on public school facilities.

Stormwater management. The site plan depicts a stormwater retention area.

Water and sewer. Water and sewer approval is required by the DeKalb County Department of Watershed Management. Approval of the SLUP shall be conditional to Watershed approval.

D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

East Ponce De Leon has a ±90 foot right of way. It is not considered sufficient to accommodate the development as proposed. If approved, dedication of additional right of way is recommended to accommodate additional road improvements needed to serve the proposed development, including a left turn lane into the convenience store from E. Ponce De Leon Avenue.

Curb cut locations shall meet the minimum requirements for spacing and sight distance and are subject to approval by the City of Tucker and DeKalb County. If approved, the land development engineer has recommended several conditions of approval pertaining to public street access which are included in this report (supports conditional approval). It should be noted that the conditions are more generally regarding the convenience store and the fuel pumps, and not specifically an alcohol retail sales outlet. If the applicant was proposing a stand-alone

convenience store, the site plan would be substantially different from the proposed fuel service station and café convenience store.

E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

In terms of development impacts, existing light industrial type land uses would not be adversely affected by proposed alcohol retail sales outlet located in a convenience store (supports request). If developed in accordance with recommended conditions, land uses along both E. Ponce De Leon Avenue and Mountain Industrial Boulevard will not be adversely affected by the character of vehicles or the volume of traffic generated by the proposed development (supports conditional approval).

F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

If developed in accordance with recommended conditions, the proposed development can meet this standard (supports conditional approval).

G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

The proposed development will not generate excessive noise, nor will it emit smoke, odor, dust or vibration. The proposed use includes alcohol retail sales outlet. The surrounding adjacent land uses are light industrial in nature, and surrounded on three sides by Light Industrial zoning. Therefore, no adverse impacts on adjoining land uses are anticipated (meets standard).

H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

DeKalb County SLUP6 studies have shown that a concentration of certain land uses - including alcohol outlets, convenience stores, -- negatively impact the public health, safety, welfare, property values, economic development and social vitality of communities and neighborhoods. SLUP6 also found that local governments across the country recognize the negative impacts of such uses and impose additional regulations and distance requirements to mitigate such impacts.

To further regulate the hours of alcohol sales, the Finance Director or designee shall ensure that all licenses for on-premises consumption of alcoholic beverages show:

- (1) Any special land use permit conditions imposed by the City Council for the establishment;
- (2) The allowed hours of operation for the location; and
- (3) Written notice to the licensee that the license with the hours of operation must be posted in a public and conspicuous place within the licensee's establishment (supports conditional approval).

I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

If developed in accordance with recommended conditions, land uses along Mountain Industrial Boulevard will not be adversely affected by the manner or operation of the development. The property is surrounded by Light Industrial zoning and light industrial uses. Additionally, it is located within 3,100 feet of the Stone Mountain Freeway interchange (supports conditional approval).

J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

The proposed development complies with all underlying zoning district requirements; and the proposed development demonstrates substantial compliance with all of the requirements of the Mountain Industrial Overlay District (meets standard).

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property and the surrounding immediate area is designated as Light Industrial on the Future Land Use map. The intent of the Light Industrial Character Area is to identify areas appropriate for industrial type uses. Primary land uses include light industrial uses, manufacturing, warehouse/distribution, automotive, accessory commercial and community facilities. The proposed development is consistent with and furthers the intent of the adopted comprehensive plan (meets standard).

L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

Not applicable. No transitional buffer zones are required due to the current zoning of surrounding properties (meets standard).

M. Whether or not there is adequate provision of refuse and service areas.

The site plan shows space for a trash receptacle towards the north of the convenience store to serve the facility (meets standard).

N. Whether the length of time for which the special land use permit is granted should be limited in duration.

No limits on the length of time on the special land use permit are recommended, if granted.

O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

The proposed use is an accessory use to a convenience store. That building is setback from the road, with parking in front. It is staff's opinion that the building size, mass, and scale will be appropriate in relation to surrounding land uses (meets standard).

P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties. Therefore, no adverse effects are anticipated (meets standard).

Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

The following supplemental use regulations are applicable: Sec. 4.2.1 (Alcohol outlets, retail, package liquor store). The applicant's letter of intent provides a detailed analysis of conformance to the alcohol regulations in the Tucker zoning ordinance. There are additional criteria that must be considered when alcohol sales are proposed, as enumerated below:

A. Package stores and liquor stores, developed as a primary use in a freestanding building, must comply with City of Tucker ordinances pertaining to licensing requirements for a retail package liquor store.

The proposal is for accessory alcohol sales, and will not be a primary use. However, a condition is proffered regarding restricted hours for alcohol sales. (Proposed development meets the criteria.)

B. Alcohol outlets in the NS (Neighborhood Shopping) District may only be permitted as an accessory use with a Special Land Use Permit (SLUP).

The subject site is zoned C-1. Regulation does not apply.

C. Alcohol outlets in the MU (Mixed-Use) districts shall be limited to beer and wine sales with a Special Land Use Permit (SLUP).

The subject site is zoned C-1. Regulation does not apply.

R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

The height of the convenience store is one story reaching 24 feet at the top of the pitched roof, which will not create a shadow impact on any adjoining lot or building (meets standard).

S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.

There do not appear to be a proliferation of alcohol sales outlets in close proximity within the city of Tucker (appears to meet standard).

- T. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.**

Mountain Industrial Overlay District. The purposes of the Mountain Industrial Overlay District, among others are to encourage development and redevelopment of properties within the district so as to achieve a more vibrant sense of place; to provide for the development of sidewalks and walkways in order to promote safe and convenient pedestrian access and to reduce dependence on automobile travel; to enhance the long-term economic viability of this portion of Tucker by encouraging new industrial type developments with some accessory commercial. As proposed, the convenience store with retail alcohol sales is an allowable use within the Mountain Industrial overlay district. If approved, the design of the building would need to be in character with the overlay district requirements including exterior building materials, creating greater visual appeal of the corridor, and enhancing the distinctive visual quality of the corridor (meets standard).

Light Industrial Character Area. The intent of the Light Industrial Character Area is to identify area appropriate for industrial type uses. Primary land uses include light industrial uses, manufacturing, warehouse/distribution, automotive, accessory commercial and community facilities. A fueling station for the trucks supports the industrial nature of this corridor. The proposed development is consistent with and furthers the intent of the adopted comprehensive plan (meets standard).

CONCLUSIONS

The proposed accessory alcohol retail sales outlet may be complementary to the existing uses along the Mountain Industrial Boulevard corridor and would contribute to the desired mix of a healthy and vibrant corridor and overlay district.

The proposed Special Land Use Permit application is consistent with the comprehensive plan character area and the zoning ordinance as the proposed accessory use is consistent with the purposes and intentions of the Light Industrial Character Area and provide a use that serves the other businesses and continued development of a vibrant industrial corridor.

CONCURRENT VARIANCE (VS-17-004-01)

A concurrent variance has been requested to Article 4.2.28.C (Fuel Canopy Height), to allow a one-foot increase in height of the fuel canopy for both automobile and truck canopies from twenty feet to twenty-one feet. The applicant states that the literal interpretation of the code will cause modification of established Speedway branding and identity due to possible topographic issues that are may not be apparent until the Site & Land Development review.

Criteria for variance approval are provided in Section 7.5.3 of the City of Tucker Zoning Ordinance.

CRITERIA TO BE APPLIED – CONCURRENT VARIANCE

1. **By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slopes), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The subject site is not unusual in shape, size, narrowness or shallowness. The subject property is 3.72 acres. The subject property has no physical hardship; however, the proposed use gives the perception of a constrained site due to the various functions that are proposed.

2. **The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The requested variance goes beyond the minimum necessary to afford relief by allowing a canopy height greater than other gas stations.

3. **The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The granting of the variance would not be materially detrimental to the public welfare or injurious to neighbors. The area surrounding the property is comprised of industrial and manufacturing uses. Additionally, all abutting properties are zoned Light Industrial and within the Light Industrial Character Area.

4. **The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

The literal interpretation and strict application of the applicable provisions or requirements of this chapter would not cause undue and unnecessary hardship, if the clearance is only 16 ½ feet. Speedway is requesting a canopy height of 21 feet which will allow installation of a four-foot fascia for the canopies. The four-foot fascia on the canopy is part of Speedway's branding and identity.

5. **The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.**

The spirit and purpose of this regulation is to provide for consistency, visual appeal that does not overwhelm the parcel, and safety. Granting of the request would not be in conflict with the spirit and intent of the comprehensive plan or the zoning ordinance promoting quality, sustainable development patterns that complement existing development.

Conclusion:

Because the request does not meet all criteria, staff recommends **DENIAL of VS-17-004-01.**

CONCURRENT VARIANCE (VS-17-004-02)

A concurrent variance has been requested to Article 3.40.7.E, Overlay District Architectural Regulations to allow the display of merchandise outside, in front of the convenience store. Specifically, the applicant is proposing to display two ice boxes and one propane gas tank. The applicant states that a hardship is created by forcing the propane and ice machines to be inside the store, and that an outside location provides for more reasonable customer access.

Criteria for variance approval are provided in Section 7.5.3 of the City of Tucker Zoning Ordinance.

CRITERIA TO BE APPLIED – CONCURRENT VARIANCE

- 1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slopes), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The subject site is not unusual in shape, size, narrowness or shallowness. The subject property is 3.72 acres. The subject property has no physical hardship; however, the proposed use gives the perception of a constrained site due to the various functions that are proposed.

- 2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The requested variance goes beyond the minimum necessary to afford relief by allowing an outdoor display which may be displayed inside the 4,608 square-foot store.

- 3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The granting of the variance would not be materially detrimental to the surrounding neighborhood.

4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.

The literal interpretation and strict application of the applicable provisions or requirements of this chapter would not cause undue and unnecessary hardship. Ice machines are generally located inside.

However, propane tanks are generally located outside at many establishments selling propane. According to OSHA General Industry Powered Industrial Truck section, there is no prohibition regarding storing propane tanks inside, but for safety reasons they are typically located in an outdoor area.

5. The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.

The spirit and purpose of this regulation is to control the visual appearance of the corridor. Granting of the request would not be in conflict with the corridor spirit and intent of the comprehensive plan, but it would add visual clutter to the site.

Conclusion:

Because the request does not meet all criteria, staff recommends **DENIAL of VS-17-004-02.**

CONCURRENT VARIANCES (VS-17-004-03 and VS-17-004-04)

Concurrent Variance VS-17-004-03 and VS-17-004-004, are administratively withdrawn from consideration at the public hearing, as they were submitted in error. The variance proposals require an administrative variance by the City Engineer, as it is a regulation found within the Land Development Regulations; however, the site plan has been revised and these administrative variances are no longer needed.

ADMINISTRATIVE VARIANCE

Based on the revised November 29, 2017, site plan, it appears that the only administrative variance to the Land Development Code would be the length of the deceleration lane. City of Tucker, Sec. 14-200 (9) requires a 150' deceleration lane with a 50' taper. The applicant is showing a deceleration lane length of 71.84' with a 25' taper. The City Engineer has done a cursory review and has no objection to this variance. Staff will further discuss the dimensions of the deceleration lane and entrance driveway during the Land Development Process review.

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **SLUP-17-004** and **SLUP-17-005**.

If approved, it should be approved **CONDITIONAL**, subject to the following conditions. Such conditions shall be complied with prior to the issuance of any building permit, unless otherwise specifically noted:

1. The property shall be developed in general conformance with the site plan submitted on November 29, 2017, to the Community Development Department, with revisions to meet these conditions.
2. The use of the property shall be limited to a convenience store with alcohol sales, and fuel pumps.
3. The hours of alcohol sales shall be limited to:
 - Monday through Saturday hours are from 9:00 a.m. until 11:00 p.m.
 - Sunday hours are from 12:30 p.m. until 11:00 p.m.
4. Alcohol sale display area shall not exceed twenty percent (20%) of the gross floor area.
5. The exterior building materials shall comply with the Mountain Industrial Overlay district architectural regulations (Section 3.40.7).
6. Lighting shall be energy efficient LED lighting with downward facing cut-off light fixtures to reduce glare.
7. There shall be no overnight truck parking.
8. Owner/Developer shall have a maximum of one (1) full access driveway on E Ponce De Leon Avenue and one (1) right in/right out only driveway on Mountain Industrial Boulevard. Curb cut locations shall meet the minimum requirements for spacing and sight distance and are subject to approval by the City of Tucker and DeKalb County.
9. Owner/Developer shall improve the turning radii at the intersection of E Ponce De Leon Avenue and Mountain Industrial Boulevard to safely accommodate the turning radius of delivery and fuel trucks. All costs associated with the construction of this intersection improvement, including the relocation of traffic signal poles, pedestrian signal poles, sidewalk, utility poles, and guardrail, shall be the responsibility of the Owner/Developer.
10. Owner/Developer shall construct a deceleration lane at the new site entrance on Mountain Industrial Boulevard.
11. Owner/Developer shall extend the eastbound left turn lane on E Ponce De Leon Avenue at Mountain Industrial Boulevard. Said left turn lane shall be extended to the western property line, as approved by the City of Tucker.

12. Owner/Developer shall dedicate additional right-of-way along Mountain Industrial Boulevard and E Ponce De Leon Avenue such that there will be a minimum of eleven feet (11') from back of curb or two feet (2') from back of sidewalk/trail, whichever is greater. The intersecting right-of-way at E Ponce De Leon Avenue and Mountain Industrial Boulevard shall be mitered.
13. Owner/Developer shall install a five foot (5') wide sidewalk along the entire frontage of Mountain Industrial Boulevard and a 10 foot (10') wide trail along the entire frontage of E Ponce De Leon Avenue.
14. Owner/Developer shall construct ADA compliant internal sidewalks that will provide pedestrian connectivity from the front of the building to the existing sidewalk/trail along Mountain Industrial Boulevard and E Ponce De Leon Avenue.
15. Owner/Developer shall provide crosswalks at all curb cuts. Pavement markings and signage shall be installed to allow for the safe passage of pedestrians and bicyclist subject to the approval of the Director of Community Development.
16. Owner/Developer shall relocate the existing MARTA bus shelter on E Ponce De Leon Avenue. Said shelter shall meet the requirements of MARTA, DeKalb County, and the City of Tucker.
17. Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition.
18. Owner/Developer shall comply with Section 14-39 of the City of Tucker Code of Ordinances concerning tree protection and replacement. A minimum tree density of 30 units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree replacement units as required in the ordinance. If the required tree density cannot be obtained on site, compensation to the City's tree bank will be considered.
19. The development of this project is contingent upon the approval of the DeKalb County Department of Watershed Management.

DEPARTMENT COMMENTS

ARBORIST

Site must meet approval of the city of Tucker tree ordinance.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

A sewer capacity evaluation form and sewer action plan was submitted to DeKalb County by the applicant. DeKalb sent the applicant a letter dated, November 27, 2017, stating, "Due to the fact that the Capacity Assurance Crediting Bank has sufficient capacity credit to offset your proposed additional flow contribution, capacity is available for development". DeKalb County Watershed Management granted approval to proceed with regards to sanitary sewer capacity pursuant to Section 3.5 of the DeKalb County Department of Watershed Management's Interim Sanitary Sewer Capacity Evaluation Form.

DEKALB COUNTY FIRE MARSHAL OFFICE

No comments.

DEKALB COUNTY SCHOOL SYSTEM

Not applicable; no comments.

LAND DEVELOPMENT

1. Curb cut locations and alignments are subject to an approved sight distance plan and the approval of the City of Tucker.
 - a. Ensure that the R/W is cleared of all obstructions that may limit the sight-distance of the driver. This includes at a minimum all trees and/or shrubs and fencing. Coordinate all improvements in the R/W with the City of Tucker and DeKalb County.
 - b. Line of sight must remain entirely in the right-of-way. Additional right-of-way or a permanent easement may need to be dedicated to meet this requirement.
2. Curb cut locations shall meet the minimum requirements for sight distance and are subject to approval by the City of Tucker and DeKalb County.
3. Owner/Developer shall provide ADA compliant pedestrian access from the building frontage to the sidewalk along Mountain Industrial Boulevard and to the trail along E Ponce De Leon Avenue.
4. Owner/Developer shall be responsible for the repair and/or replacement of the existing concrete trail and sidewalk along E Ponce De Leon Avenue and Mountain Industrial Boulevard.
5. Owner/Developer shall provide a turning radius analysis using a WB-67 truck to ensure that there is adequate turning radii for ingress/egress to the site, within the site, and at the intersection of E Ponce De Leon Avenue and Mountain Industrial Boulevard.

6. All stormwater detention, water quality, and channel protection shall comply with the Georgia Stormwater Manual.
7. Development plans shall meet all the requirements of the City of Tucker Development Regulations, Tree Protection, Erosion & Sedimentation Control, Floodplain, and Stream Buffer Ordinances prior to the issuance of a Land Disturbance Permit.
8. Water and sewer approval is required by the DeKalb County Department of Watershed Management.