

**Council Ward:** 4  
**Evaluation Prepared by:** Katie Coulborn

**Applicant:** Paul Xhajanka  
2175 Parklake Drive NE  
Atlanta, GA 30345  
770-496-7516

**Owner:** MCW-RC GA-WOODSTOCK CROSSING, LLC

**Parcel #:** 15N18 165

**Location:** 12050 Hwy 92, southwest quadrant of Hwy 92/Trickum Road Intersection

**Area:** +/- 7.3873 ac.

**Request:** Conditional Use Permit

**Proposed Use/  
Purpose:** Fuel Station – 7 multi-pump dispensers

**Current Zoning:** GC (General Commercial) with Parkway Overlay

**Current Land Use:** The subject property is currently a Kroger shopping center.

**Future Land Use:** Regional Activity Center

**Surrounding Properties:**

	<b>Current Zoning</b>	<b>Current Land Use</b>
<b>North</b>	GC with Parkway Overlay	The Village at Trickum Shopping Center, which includes Buffalo’s, Subway, Salon 92, Little Caesars, and others
<b>East</b>	GC with Parkway Overlay	Bojangles is directly to the east, and across Trickum Road is a BP Gas Station
<b>South</b>	R-4	Alta Woods Apartments
<b>West</b>	GC with Parkway Overlay	Trickum Ridge Animal Hospital

**DPC Meeting:** August 7, 2013  
**PC Meeting:** September 5, 2013  
**Council Meeting:** September 23, 2013

**Executive Summary:**

The subject property is a Kroger shopping center with several smaller commercial suites and a large parking lot. The applicant is requesting a Conditional Use Permit to build a Kroger fuel station in the parking lot on the property. Gas/fuel stations are permitted only by Conditional Use under GC (General Commercial) zoning. According to the preliminary site plan, the proposed fuel station will have seven multi-pump dispensers and a kiosk with a restroom, but there will be no public access within the structure. There will also be outdoor merchandizing/displays which will be pulled inside or locked at night. When the station is closed, most of the lights will be off, excluding a few security lights.

**Zoning History:**

The property was the subject of an annexation and rezoning case, where 3360 Trickum Road was annexed and rezoned from County Agricultural to General Commercial and joined with another property to form a parcel large enough for a shopping center to be built. The annexation and rezoning was approved by the Woodstock City Council on January 11, 1993, with no conditions.

**Criteria for Consideration of a Conditional Use Request:**

Woodstock LDO Section 7.503- Conditional Use Permit Review Criteria provides the following criteria which must be considered in reviewing Conditional Use requests:

**(a) Whether or not there will be a significant adverse effect on the surrounding area in which the proposed use will be located.**

Because the current land use is commercial, the surrounding land uses to the east, west, and north are commercial, and the proposed fuel station will be occupying an area that is now parking lot space, it is unlikely that there will be a significant adverse effect on the surrounding area. There is a multifamily residential development to the south of the subject property, but since the entrance to the multifamily use is not on Hwy 92 and the existing retail buildings will remain between the multifamily use and the proposed fuel center, it is unlikely that there will be a significant adverse effect due to the addition of the fuel center.

**(b) Whether or not the use is otherwise compatible with the surrounding area.**

The proposed use is compatible with the surrounding area. Currently, two gas stations are in the immediate vicinity of the subject site, including a BP station at the southeast quadrant of the Highway 92/Trickum Road intersection and a Flash Foods station at the northeast quadrant of the intersection.

**(c) Whether or not the use proposed will result in a nuisance as defined under state law.**

O.C.G.A. §41-1-1 defines a nuisance as, “*anything that causes hurt, inconvenience, or damage to another and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance.*” The use proposed is not anticipated to result in a nuisance as defined under state law.

**(d) Whether or not quiet enjoyment of surrounding property will be adversely affected.**

Staff does not anticipate that the use proposed will adversely affect the quiet enjoyment of surrounding properties. As currently developed, the site is a commercial use surrounded by similar uses. The proposed fuel center is not expected to significantly impact noise or light levels experienced by surrounding properties.

**(e) Whether or not property values of surrounding property will be adversely affected.**

The applicant has stated that Kroger is looking to this new use to draw additional customers, and is hoping that by adding the fuel station the sales will increase at this location, and more people will be drawn to the area. At the DPC meeting, the applicant stated that the long-term goal is to generate enough revenue to eventually do a remodel on the store, which the applicant reports is currently underperforming. Staff does not anticipate any adverse impact to surrounding property values resultant of the fuel center addition.

**(f) Whether or not adequate provisions are made for parking and traffic considerations.**

The shopping center includes a total of 77,214 s.f., as depicted on the preliminary site plan. Land Development Ordinance Section 7.767 requires one parking space per 300 square feet of gross floor area for a shopping center. According to the submitted site plan, 75 of the existing 341 spaces will be removed in order to accommodate the fuel center, resulting in 266 remaining parking spaces, exceeding the parking requirement by 8 spaces (258 spaces are required.)

**(g) Whether or not the site or intensity of the use is appropriate.**

The site and intensity of the proposed fuel center is appropriate, given its consistency with the existing character and land use patterns of the area.

**(h) Whether or not special or unique conditions created by the use are consistent with the purpose, intent and goals of the Comprehensive Town Plan**

The Future Development Map within Comprehensive Town Plan 2030 identifies the subject site as a “Regional Activity Center.” A fuel center, as proposed, is not consistent with the character outlined in the Plan, which envisions, “*an open air market-like development that focuses on certain retail sectors and blends mixed uses typical of an old time Main Street, such as services, restaurants, offices and residential.*” By its very nature, a fuel center is an automotive type use that is not supportive of the pedestrian-centered environment that the Regional Activity Center is intended to establish. While a fuel center on its own accord

may not be consistent with the Plan, this location would be an accessory and supportive use to an existing commercial use, which may warrant additional consideration.

**(i) Whether or not adequate provisions are made regarding hours of operation.**

The applicant has stated that the hours of operation will be 5:30 or 6:00 am to 10:00 or 11:00 pm. In limiting hours of operation as proposed, surrounding properties are not expected to be negatively impacted as a result of the operating hours.

**(j) Whether or not adequate controls and limits are placed on commercial and business deliveries.**

The applicant has stated that the average Kroger Fuel Center receives 3 trucks per week. They avoid the AM peak (7 - 9 AM) and PM peak (5 – 7 PM). The applicant estimates that 20% of the time, refueling trucks arrive between 4 and 6 AM. The other 80% of the time, they arrive after the AM and PM peaks. Because of the commercial character of the area, surrounding properties are not anticipated to be affected by the addition of these deliveries to the current amount of traffic.

**(k) Whether or not adequate landscape plans are incorporated to ensure appropriate transition between adjacent or nearby properties.**

No changes to the existing perimeter landscaping or buffer have been proposed. The existing landscaping provides sufficient transition to the surrounding uses, which are commercial and multi-family in nature.

**(l) Whether or not the public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected.**

The public health, safety, welfare or moral concerns of the surrounding neighborhood will not be adversely affected by this use.

**(m) Whether the application complies with any applicable specific requirements set forth in this chapter for Conditional Use permits for particular types of uses.**

There are no specific requirements set forth for conditional use permits for fuel stations; however, the Land Development Ordinance does provide the following standard for fuel stations

	Ordinance Requirement	Proposed	Compliance
7.304 # 19 (e)	Filling station pumps and pump islands where permitted may occupy the required yards, provided; however, that they are not less than fifteen (15) feet from the street right-of-way	42'	yes

**(n) Whether the applicant has provided sufficient information to allow full consideration of all relevant factors.**

The applicant has provided all information as requested.

**(o) Whether the Conditional Use requested emits or creates unusual odors which would warrant use of an odor elimination/attenuation system as recommended by industry standards**

Staff is unaware of any industry standards that require odor elimination systems for fuel stations.

**Recommendation:**

At the August 7, 2013, meeting, the Development Process Committee voted unanimously to recommend approval of the applicant's request, CUP#013-13 with the following conditions:

1. There shall be a maximum of seven (7) multi-pump fuel dispensers located on the Property.
2. Canopy supports shall be constructed of brick and canopy color scheme shall be of neutral tones, with architectural standards substantially similar to the rendering submitted at the August 7<sup>th</sup>, 2013, DPC meeting, attached hereto as Exhibit "C," and made apart hereof by reference.

**Attachments:**

- Zoning Map
- Site Photo
- Rendering (Exhibit C)
- Site Plan
- Application

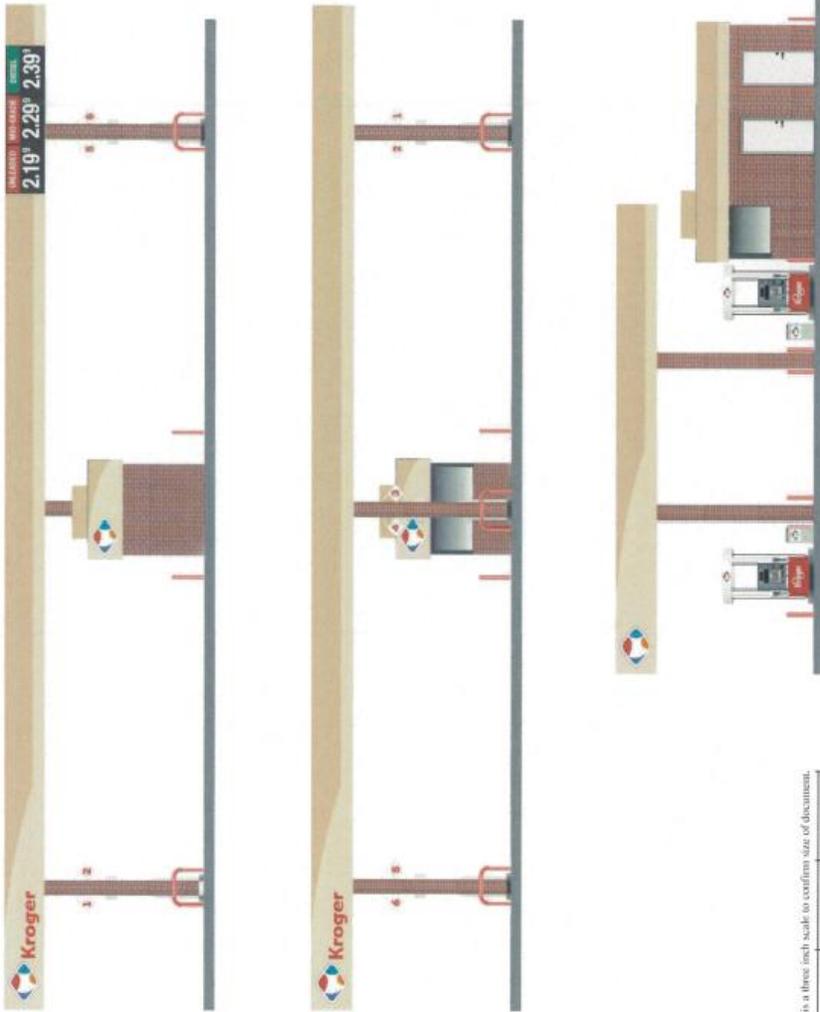








**EXHIBIT "C"**  
**Rendering**



Submitted at DPC meeting 8.7.13 (K)