Staff Report
City of Doraville, Georgia
Planning and Zoning

Public Hearing:	MCC public hearing scheduled for October 25, 2010 @ 6:30 p.m.
Applicant:	Bethel at Edgewater, LLC, Seung Kwon Kim, for International Beverage
Request:	Conditional Use per Ordinance 2010-24 on property zoned C-2 for "Liquor stores (retail) (subject to restrictions of Code). The maximum gross floor area of the structure shall be 10,000 square feet." No variances were requested or advertised.
Location:	Parcel ID 18-310-04-035, 5224 Buford Highway
Tract Size:	Approximately 1.0 +/- acres
History:	Item advertised per City Council directive of August 30, 2010, per C-2 text amendment to allow consideration of the item per CU criteria.

CU Standards of Review

(1) ***The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan.*** True. The site is a retail use located on a C-2 highway commercial corridor in an area which is not saturated by this type of use. The Comp Plan envisions the area as a Highway Commercial corridor which would generally mean either C-1 or C-2.

(2) ***The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations.*** True. Retail sales of foodstuffs without on-site consumption are common within C-2.

(3) ***The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent developments and neighborhoods.*** True. Although there is an adjacent multi-family neighborhood zoned R-3, it is in a debilitated condition and is currently listed on the City's nuisance abatement list. Development is characteristic of this corridor and is unlikely to negatively impact its surroundings given the immediate needs warranted by its neighbors in order to comply with basic property maintenance requirements.

(4) ***The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.*** True. Due to the site's location it is proximate to a major transportation gateway Buford Highway) and is generally disconnected from neighborhoods which is more ideal than other locations for this type of business. Concern is raised regarding the residential habitation at 5220 Buford Highway (Church facility/shelter) and the apartments which abut the rear of the property regarding potential foot traffic.

(5) ***The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets.*** False. There are no neighborhood streets which are affected by the site due to location on GDOT right-of-way (Buford Highway).

(6) ***The proposed use incorporates features to minimize adverse affects, including visual impacts, of the proposed conditional use on adjacent properties; and the proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining developments and neighborhoods.*** Care should be taken to review the site's compliance with the regulatory code prohibitions on exterior alcohol signage which may also improve the appearance of the site as well. Also, the rear of the site has been a persistent code issue with QOL citations for storage in temporary containers but these appear to have been resolved by Court activity. QOL activity resulted in some 70 + violations.

(7) ***The proposed use is based on a site plan in conformity with all space limits, buffers, parking and loading provisions, and other provisions of this article.*** Item cannot be determined from available information due to no site plan submitted which is essential to the CU process. Only to the extent that the property has been rendered legally non-conforming by Code changes can it be determined to be in compliance. Lacking detailed information, the site could be an assemblage of items that are simply code deficiencies. Similarly, the site could be in compliance with the Codes that existed at the time it was built. NOTE: Transitional zoning buffers (30 feet) are required where the property abuts R-3 developed as apartments.

(8) ***The proposed use applicant has agreed to any specific limitations or conditions necessary to protect the public interest and assure the continued beneficial use and enjoyment of nearby properties or that no special limitations are necessary to protect the public***. Item cannot be determined from available information due to no mediation as yet with the City Council.

Recommendation:

Conditional Use:

Based upon the standards of review contained herein with such actions warranted by past staffing error, the Department recommends **Approval with Reservations** because more standards appear to be met than not met of the Conditional Use (CU) petition request for a retail liquor store provided there is no expansion in the square footage footprint of the existing liquor facility nor an expansion in the area of the multi-tenant facility which it is a part of.

The site as a CU shall be governed by Ordinance 2009-28 with no variations expressed or implied.

5224 Buford HWY CU (Retail Liquor Store)

The approval of the CU does not warrant compliance with the City regulatory Codes and is just the first of many requirements (including fees) to obtain occupational and alcohol licensure which is in the review capacity of the City Clerk's Office and the Doraville Police Department.

Despite repeated attempts by Staff, no liquor survey which evidences compliance with City regulatory codes has been provided. Therefore, Staff has not evaluated the required distances needed to obtain a liquor license. Not unlike other CU requests (e.g. Spa 18), the Council may act on the CU application with no expressed guarantee of eventual licensure. The same is referenced in the minutes of December 14, 2009, and the case deliberations which hinged on a hypothetical CU being granted but City regulatory Codes potentially never being met.