



Land Use Petitions: SLUP-16-004, VS-16-004-01
Date of Staff Recommendation Preparation: November 18, 2016
Community Council: October 12, 2016
Planning Commission: November 28, 2016
Mayor and City Council, 1st Read: December 12, 2016
Mayor and City Council, 2nd Read: January 9, 2017

PROJECT LOCATION: 4224 Lavista Road

DISTRICT//LANDLOT(S): 18th District, Land Lot 210

ACREAGE: 20.73 acres

EXISTING ZONING O-I (Office-Institutional)

PROPOSED ZONING: OI (Office-Institutional)

FUTURE LAND USE MAP DESIGNATION: RC (Regional Center)

OVERLAY DISTRICT: Northlake Overlay, Tier 2

APPLICANT: Tucker Meridian, LLC c/o Kathryn M. Zickert

OWNER: Tucker Meridian, LLC

PROPOSED DEVELOPMENT: Drive-through facility for a Caribou Coffee/Einstein Brothers; concurrent variance to allow the drive-through lane to be located on the front side of the building.

STAFF RECOMMENDATION: **APPROVAL of SLUP-16-004**
APPROVAL of VS-16-004-01

PROJECT DATA

The applicant requests a Special Land Use Permit for a drive-through facility at 4224 Lavista Road. This site is part of the Meridian Development, a 20.73-acre redevelopment project at the northeast corner of the Lavista Road/Northlake Parkway intersection. The property was rezoned for this development in 2015 through DeKalb County, per case CZ-15-19671. While the initial site plan for the rezoning showed the drive-through lane in a similar configuration, the applicant did not request a Special Land Use Permit until now. The previous development contained eleven, one-story office buildings.

The proposed drive-through facility will service a one-story, 2,550-square foot restaurant (coffee and bagels) that is located on the southeast portion of the 20.73-acre site. The drive-through lane circles in front of the building, along Lavista Road, and therefore requires a concurrent variance as Section 4.2.23.C of the City of Tucker Zoning Ordinance states that “drive-through lanes and service windows shall be located to the side or rear of buildings.” The proposed drive-through lane maintains compliance with the 60-foot required buffer (condition of rezoning) and is within 70-foot building side setback along the east side of the property (shown on rezoning site plan). The menu board and speaker box will face Lavista and the drive-through window will face the east, towards the Winding Woods Subdivision.

The larger site, which features one continuous row of several big-box stores at the rear and three individual buildings with much smaller suites along the road, has been through a comprehensive review process where traffic impacts, access, etc have been studied. The site will have a right-in/right-out access on Lavista that aligns with Lavista Dale Court and a new traffic signal will be installed for the development on Northlake Parkway. The Meridian Development, with the exception of the subject building, is currently under development, with permits having been obtained from DeKalb County.

The site plan complies with the City of Tucker Zoning Ordinance with the exception the drive-through lane that is located in the front of the building.

COMMUNITY COUNCIL REVIEW

The Community Council reviewed the proposed application on October 12, 2016. They discussed hours of operation for the drive-through, lighting, and buffer separations. Comments from the public concerned vegetation plans, proximity of the neighborhood, and elevation plan. The Community Council voted to recommend approval of the proposed project, 7-0, and asked that the applicant provide additional plans to the Planning Commission that show the changes in grade and the vegetation between the proposed site and the residential community to the east.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use
Adjacent: North	OI (Office-Institutional)	Office Building
Adjacent: North	OI (Office-Institutional)	Office Building
Adjacent: East	R-85 (Residential Medium Lot - 85)	Single-Family Residential (Winding Woods)

Adjacent: South	OI (Office-Institutional) and C-1 (Local Commercial)	Single-Family Residential (Vista Dale Court)
Adjacent: south and southwest	C-1 (Local Commercial)	Fast Food/Restaurant
Adjacent: West	C-1 (Local Commercial)	Extended Stay Hotel
Adjacent: West	OI (Office-Institutional)	Commercial Shopping Center

*Density is not available as the City of Tucker does not have access to entitlement files.

SPECIAL LAND USE PERMIT (SLUP-16-004)

The applicant has requested a Special Land Use Permit for a drive-through facility for a restaurant at 4224 Lavista Road.

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 Section 4.2.23. 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.

CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT

- 1. Adequacy of the size of the site for the use contemplated and whether or not adequate land areas 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, which totals 20.73-acres, is adequate in size for the proposed drive-through facility. The overall site and the specific building that will feature the drive-through complies with setbacks, open space, off-street parking, stacking, and other dimensional requirements listed in the zoning ordinance.

- 2. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.**

A drive-through is compatible as the property is located in a major commercial corridor that is centered around Interstate 285. There is an established residential neighborhood to the east, but the site incorporates a 60-foot buffer between the two uses to diminish the potential negative impact of non-residential adjacent to residential.

- 3. Adequacy of public services, public facilities, and utilities to serve the proposed use.**

The DeKalb County Department of Watershed Management is currently reviewing the proposal. Approval of the SLUP should be contingent on approval for additional sewer capacity. Several transportation improvements will be made to the area as a part of the overall development.

- 4. 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.**

The Traffic Impact Analysis for the overall development yielded the following improvements: southbound left and northbound right turn lanes added to Northlake Parkway at the main site driveway; a traffic signal will be installed at the main entrance on Northlake Parkway; and a right deceleration lane will be constructed on Lavista Road at the site driveway per the GDOT requirements. With these improvements, the public streets will be adequate and the project will not unduly increase traffic or create congestion.

- 5. 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.**

The character of the vehicles will not change because a drive-through is added, as the overall shopping center, with a mixture of retail and restaurant uses, is the main driver for vehicles and traffic volume. The volume of traffic may increase slightly due to the convenience of the drive-through, but there is sufficient access and stacking to limit the impact.

- 6. 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.**

With the traffic improvements being implemented, there is adequate ingress and egress to the subject property, as well as traffic control, automotive safety and convenience. Significant sidewalk paths and connections are also available. The DeKalb Fire Department has reviewed the site plan and has no concerns regarding life safety access to the site.

- 7. 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 use would not create noise, smoke, odor, dust, or vibration that would create adverse impacts upon any adjoining land use. The speaker box will face Lavista, away from the residential properties to the east.

- 8. 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 use should not create adverse impacts upon adjoining land uses by reason of the hours of operation. Conditions of zoning state that “lighting shall be shielded or recessed so that direct glare and reflections are confined to the maximum extent feasible within the boundaries of the site, and shall be directed downward and away from adjoining properties. No lighting on private property shall produce an illumination level greater than one footcandle on any property within a residential zoning district except on the site of the light source.”

- 9. 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.**

The proposed use should not create adverse impacts upon adjoining land uses by reason of the manner of operation due to the change in grade and planted buffer.

10. 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.

Restaurants with drive-through facilities are not permitted in the O-I (Office-Institutional) zoning district, but they are permitted with a Special Land Use Permit in the Northlake Overlay. The application is compliant with the supplemental use regulations, with the exception of the drive-through being located in front of the building.

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

Retail and commercial centers are encouraged within the Regional Center character area.

12. 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.

The 60-foot buffer zone on the east property line exceeds the requirement of the Zoning Ordinance by 10-feet.

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

A large refuse area is located to the southwest of the proposed drive-through restaurant. Part of the dumpster pad, and the doors when opened, encroach into the bypass lane. The applicant has stated that the dumpsters will only be serviced after operating hours and therefore, should not obstruct the bypass lanes and impede vehicle flow around the site. Staff recommends that a pedestrian access point be added to ensure that the dumpster doors will not be opened during operating hours.

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

If granted, there should be no restrictions on length of time for the requested special land use permit.

15. 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 drive-through restaurant measures approximately 40.75' x 62.75' and is 20-feet tall. The size, scale, and massing is appropriate in relation to nearby businesses and residences.

16. 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.

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

With the exception of the drive-through lane being in front of the building, the drive-through restaurant complies with the supplemental regulations listed in Section 4.2.23 as the drive-through is more than 60-feet from a residentially zoned property; is located on a property that is more than 10,000-square feet in area; the speaker boxes are pointed away from adjacent residential properties; stacking is sufficiently provided; and the drive-through lane will not impede on and off-site traffic movements. Due to the nature of the site, there are few alternatives where a drive-through may be located and still comply with all of the requirements. Staff believes that the proposed layout of the drive-through lane provides the least amount of impact to the site and adjoining neighborhood.

18. 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 proposed building is only 20-feet tall and will not create a negative shadow impact on any of the adjoining lots of buildings.

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

There are several fast-food restaurants within the immediate area, but the majority are not café based like the current proposal. Typically fast-food establishments cater to the breakfast, lunch and dinner services, where cafés are more targeted to breakfast, creating less impact.

20. 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.

The proposed use is compatible with the overall development and would serve the community as a whole by providing a dining option that is not currently available. It also meets the intent of the comprehensive plan by allowing a diverse mix of restaurants and retail in the commercial corridor.

CONCURRENT VARIANCE (VS-16-004-01)

A concurrent variance has been requested to Section 4.2.23.C in order to allow a drive-through lane in the front of the building. The City of Tucker Zoning Ordinance stipulates several supplemental use requirements for drive-throughs in order to promote high quality design and protection for abutting neighborhoods. Some of the criteria, such as the regulations for the location of the speaker boxes, offer more protection than others. With the way the site is designed, the building must face the street as well as the interior of the site where the parking and main access points are provided. This limits the service locations of the drive-thru lane, the speaker box and menu board, and the pick-up window.

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 requirement for double-frontage limits where a drive-through lane may be provided. The placement of the drive-through lane in the front of the lot would be less invasive than the speaker box being located on the side, facing a residential neighborhood.

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 granting of the variance would not constitute a special privilege as there should be a location for the service orientated parts of a building.

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 as there is a large landscaped area in front of the proposed drive-through lane that will help minimize the appearance from the street.

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 drive-through lane location would cause undue and unnecessary hardship as there should be some relief for the service orientated portions of the building.

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 high quality layouts and residential protection. The architecture, landscape areas, and separation from adjacent residential areas meets the intent of the zoning ordinance.

STAFF ANALYSIS

In conclusion, the requested SLUP for the drive-through, is consistent with the recommendations of the Comprehensive Plan, is compatible in use with the surrounding commercial corridor, and would not create any adverse impacts due to the planted buffers. Therefore, Staff recommends approval with conditions of the requested Special Land Use Permit. Additionally, Staff recommends approval of the concurrent variances for the location of the drive-through lane as the application meets all five criteria listed.

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL WITH CONDITIONS** of Land Use Petition **SLUP-16-004 and VS-16-004-01**.

1. The property should be developed in general conformance with the site plan submitted on September 29, 2016 to the Community Development Department.
2. That the drive-through should only be used for a café-based restaurant such as those specializing in coffee, bagels, donuts, or pastries.
3. The drive-through lane may be located to the front of the building (VS-16-004-01).
4. The dumpsters doors shall remain closed during operating hours to prevent obstruction into the bypass lane.
5. A pedestrian access point shall be added to the dumpster enclosure for employees to use so that the dumpster doors are not open during operating hours.
6. Additional landscaping shall be planted in the green space in front of the drive-through lane to further mitigate the impact from the street.

DEPARTMENT COMMENTS

ARBORIST

1. Site must meet approval of the City of Tucker tree ordinance.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

1. Final DWM approval will not occur until Sewer Capacity is verified or an action plan is presented.
2. Developer must complete the Sewer Capacity Evaluation Request Form.

DEKALB COUNTY FIRE MARSHAL OFFICE

This project has already passed site review and should be good to proceed with the tenant build outs.

DEKALB COUNTY SCHOOL SYSTEM

Not applicable.

LAND DEVELOPMENT

Zoning Comments

1. The bypass lane cannot be obstructed by the dumpster pad.