



# City of Tucker

**Land Use Petitions:** SLUP-24-0003, CV-24-0003, CV-24-0004, CV-24-0005

**Planning Commission:** June 20, 2024

**Mayor and City Council, 1<sup>st</sup> Read:** July 8, 2024

**Mayor and City Council, 2<sup>nd</sup> Read:** August 12, 2024

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<b>PROJECT LOCATION:</b>	3925 Lavista Road
<b>APPLICATION NUMBER:</b>	SLUP-24-0003
<b>DISTRICT/LANDLOT(S):</b>	18 <sup>th</sup> District, Land Lot 190
<b>ACREAGE:</b>	±0.679 acres
<b>EXISTING ZONING:</b>	NL-1 (Northlake High-Intensity Commercial)
<b>EXISTING LAND USE:</b>	Restaurant
<b>FUTURE LAND USE MAP DESIGNATION:</b>	Town Center
<b>OVERLAY DISTRICT:</b>	N/A
<b>APPLICANT:</b>	Southeastern Retail Development, LLC, c/o Alec Lesley
<b>OWNER:</b>	Reeves and Flowers Partnership, LLC
<b>PROPOSED DEVELOPMENT:</b>	SLUP to allow a drive-through ATM for a bank with three concurrent variances for minimum storefront fenestration, maximum front setback and maximum parking
<b>STAFF RECOMMENDATION:</b>	<b>APPROVAL with conditions of SLUP-24-0002</b> (bank with drive-through ATM) <b>APPROVAL of CV-24-0003</b> (minimum fenestration) <b>APPROVAL of CV-24-0004</b> (maximum front setback) <b>DENIAL of CV-24-0005</b> (maximum parking)

## Project Data and Background

The applicant, Southeastern Retail Development, LLC, is requesting a Special Land Use Permit (SLUP) with three concurrent variances for the property located at 3925 Lavista Road to allow for a bank with two drive-through ATMs in the NL-1 (Northlake High-Intensity Commercial) zoning district. Per the Land Title Survey dated February 16, 2024, the subject parcel is 0.679 acres. Located at the southwestern corner of the intersection of Lavista and Montreal Roads, the proposed area is currently developed as Kacey's Home Cooking restaurant.

Facilities, such as banks, with a drive-through configuration are only allowed in the Northlake special zoning districts (NL-1, NL-2, and NL-3) with the approval of a SLUP to ensure compatibility with surrounding developments and consistency with the City of Tucker's Comprehensive Plan. The applicant is also requesting relief from the following code regulations: the 65% minimum storefront fenestration requirement along public streets (CV-24-0003); the maximum front setback distance in the NL-1 zoning district (CV-24-0004); and the maximum parking requirements for bank (office) use (CV-24-0005).



*Figure 1. Aerial image of 3925 Lavista Road and adjacent properties.*

Several other drive through facilities, including multiple banks and other restaurants, are located nearby, but many were developed prior to the incorporation of the City of Tucker in 2016. SLUP-16-004 (Ordinance O2016-12-47) was approved in 2016 for Einstein Bros Bagels with a drive-through configuration at the Tucker Meridian shopping center. SLUP-21-0001 (Ordinance O2021-03-04) was

approved in 2021 for a CDC Federal Credit Union branch with a drive-through configuration as an outparcel development at Northlake Mall. On June 10, 2024, the City Council approved a Jim 'N Nick's Barb-B-Q restaurant with a double drive-through (SLUP-24-0002) on the outskirts of Northlake Mall fronting Briarcliff Road.



*Figure 2. 3925 Lavista Road (Google Streetview Jan 2024).*

Fifth Third Bank is a large national consumer bank based in Cincinnati, Ohio. Currently there are more than 25 locations in Georgia, and Fifth Third seeks to expand their presence in the state with a new location in Tucker.

The proposed bank includes a 1,900 square foot main building, two drive-through ATMs, and a dumpster enclosure. The drive-through lanes are at the southern (rear) portion of the property and include a third lane for bypass traffic. Currently the parcel has three curb cuts: one on Lavista Road and two on Montreal Road. The proposal maintains the Lavista Road curb cut and the southernmost Montreal Road curb cut. The second curb cut on Montreal Road that is closer to the intersection would be eliminated. A screened dumpster enclosure is proposed near the southwestern corner of the property, away from the street fronts.

In addition to development standards found in Chapter 46, Division 3 (Northlake Zoning Districts) in the City of Tucker Code of Ordinances, drive-through facilities must also comply with the supplemental use regulations found in code Section 46-1166. These use regulations stipulate that a minimum of three cars should be able to stack in each drive-through lane, that the lanes must be properly striped and avoid

crossing parking areas, and that a pass-through lane is built that allows vehicles to travel around the property and avoid the drive-through. Per code Section 46-1045, regulations for drive-through facilities specifically in the Northlake districts, the drive-through windows and lanes must be screened by a continuous compact evergreen hedge, or a screening wall with a minimum height of four feet. The proposed bank with two drive-through facilities meets these drive-through regulations.

### **USE ANALYSIS AND DEVELOPMENT PERMISSIONS**

The purpose and intent section of the NL-1 zoning district (Sec. 46-1032) indicates the NL-1 zoning district is established “to allow for the most intense mixed-use development in Tucker. It encourages the redevelopment of parking lots into a mix of retail, office, and residential uses in the same development.” Additional intents of all Northlake districts are to “encourage development and redevelopment of properties in order to achieve a mixed-use community, to provide for the development of sidewalks and walkways to promote safe and convenient pedestrian access and to reduce dependence on automobile travel, and to promote a physically attractive, environmentally safe and economically sound mixed use community,” and other statements of intent focusing on commercial and residential redevelopment that enhances the long-term economic viability of the Northlake area and forms a well-designed, pedestrian-friendly activity center. Drive-through facilities in the Northlake districts, both restaurants and otherwise, require a SLUP and reviewal on a case-by-case basis to ensure compatibility with the surrounding area, the intent of the zoning districts and the future land use designations in this area of the city.

A bank with a double drive-through is partially compatible with the purpose and intent of the Northlake special zoning districts. Compatible elements include larger sidewalks that improve walkability along both Lavista and Montreal Roads, and increased open space, which improves the aesthetics as well as environmental aspects of the site. The proposed building is placed closer to the road than the existing structure, has pedestrian entrances on the primary elevations, and does not have parking between the building and the street. Existing restaurants with a drive-through that are located nearby and within the City of Tucker include Captain D’s Seafood Kitchen, Smoothie King, Chipotle, and Chick-fil-A. Nearby banks with drive-through service include Regions Bank and Georgia United Credit Union. Although the proposed bank with drive-through is unlikely to reduce dependence on automobile travel, the redevelopment of the site creates more green space in the area and could spur further redevelopment.

### **CHARACTER AREA (Future Land Use)**

The subject parcel is designated Town Center on the Future Land Use Map. The Town Center Character Area is a new designation in the City’s 5-Year Comprehensive Plan update in 2023, replacing the previous designation of Regional Center. The bank proposal is consistent with some aspects of the Town Center Character Area and inconsistent with others. Much of the intent of the Town Center Character Area is to promote higher intensity residential and commercial uses, reduce automobile travel and promote walkability in Town Center-designated areas. The proposed development likely would not reduce automobile travel nor promote walkability, but one curb cut close to the intersection of Montreal and Lavista Roads will be removed, and the sidewalks will be replaced with ten-foot multi-use trails. The property is also conveniently located along the current MARTA bus route 30 on Lavista Road, which

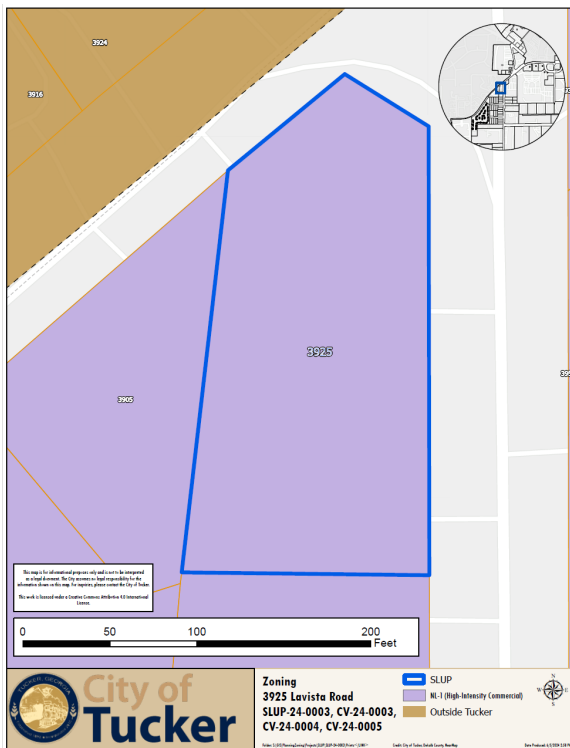
serves the Northlake area and connects to the Lindbergh Center station and is near a stop for MARTA bus route 125, which connects the Northlake area to Kensington Station.

**PUBLIC PARTICIPATION PLAN REPORT**

The applicant hosted a public participation meeting on April 10, 2024. The meeting was held at 4083 Lavista Road (conference room at Courtyard Marriott) and lasted approximately 60 minutes. Prior to the meeting, the applicant mailed a letter, the proposed site plan and building elevations to all property owners within 500’ of the subject parcel. There were five (5) people in attendance. The applicant’s report listed questions regarding traffic at the bus stop at the south of the property (route 125) and increased traffic when the train is active. An additional concern raised was the potential for cut-through traffic in the proposed inter-parcel access at the western property line to the adjacent gas station property. It does not appear that any changes were made to the site plan following the public participation meeting.

**NEARBY/SURROUNDING LAND ANALYSIS**

Adjacent & Surrounding Properties	Zoning	Existing Land Use
Adjacent: North (Across Lavista Road)	UNINCORPORATED DEKALB COUNTY	Mavis Tires & Brakes
Adjacent: North (Across Lavista Road)	UNINCORPORATED DEKALB COUNTY	Goodyear Tire & Service
Adjacent: East (Across Montreal Road)	NL-1 (Northlake High-Intensity Commercial)	Kroger Shopping Center & Dunkin’ Donuts
Adjacent: South	NL-1 (Northlake High-Intensity Commercial)	Captain D’s Seafood Kitchen (with drive-through)
Adjacent: West	NL-1 (Northlake High-Intensity Commercial)	Chevron Gas Station with a Food Mart & Hibachi Express



*Figures 3 and 4. Zoning Map and Aerial Image.*

## SLUP-24-0003

### **CRITERIA TO BE APPLIED**

Criteria (standards and factors) for special land use decisions are provided in Section 46-1594 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are the staff's findings which are independent of the applicant's responses to these criteria.

- 1. 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 0.679-acre site has adequate land area for the proposed bank with a double drive-through configuration. The proposal includes the minimum required yards, the minimum 10 percent open space requirement of Section 46-1036, and more than the minimum required parking spaces.

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

The proposed bank and drive-through ATM is consistent with adjacent properties along Lavista and Montreal Roads. National chains such as Goodyear, Dunkin' Donuts, and Kroger abound in this heavily traveled corridor.

- 3. 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.** Stormwater detention will be required.

**Water and sewer.** DeKalb County Department of Watershed Management (DWM) approval is required.

- 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 as a result of the proposed bank and drive-through ATM will be minimal. The Trip Generation Report letter states that the Fifth Third drive-through will generate approximately 2.84 customer trips during peak hours. The Trip Generation Report letter notes that peak hours tend to occur during late afternoons and all day on Fridays. Average customer trips per hour in off-peak hours is 2.0.

- 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.**

It is not expected that land uses along Lavista and Montreal Roads would be adversely affected by the character of the vehicles or volume of traffic generated by the proposed bank and drive-through ATM. Consumer banks such as Fifth Third draw customers who tend to drive passenger vehicles in low volumes. Additionally, the proposal includes the removal of a curb cut (access point) that is close to the intersection of Montreal and Lavista Roads, which may improve traffic safety.

- 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.**

The proposed site plan includes the existing curb cut on Lavista Road, and one of the existing curb cuts on Montreal Road, which is adequate for vehicle access. Additional vehicle access could be provided by the proposed inter-parcel connection with the parcel to the southwest at 3905 Lavista Road if the property owners can come to an agreement. The addition of a sidewalk along Montreal will increase options for pedestrian safety. Pedestrian pathways are provided that connect the bank building to the sidewalk, and the parking lot and drive-through lanes have been designed so that pedestrians do not need to enter the drive-through lanes.

- 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 generation of excessive noise, smoke, odor, dust, or vibrations are not expected with consumer bank and drive-through ATM use.

- 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 hours of operation will range from 8:00 am to 5:00 pm on weekdays, and from 9:00 am to Noon on Saturdays. This is less than most uses in the area and will not create adverse impacts upon adjoining uses.

- 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.**

There are no anticipated adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use. The development eliminates one curb cut on Montreal Road, the hours of operation and traffic volume should have minimal impact upon the area.

- 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.**

Banks are permitted in the NL-1 zoning district. If approved by SLUP, the proposed ATM drive-through will comply with the NL-1 zoning district.

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

The proposed development is not entirely consistent with the adopted comprehensive plan. The stated intent of the Town Center Character Area is “to promote the concentration of higher intensity residential and commercial uses...to reduce automobile travel, promote walkability and increased transit usage.” The proposed drive-through ATMS are automobile focused, but likely will not increase automobile use in the area. The additional sidewalks could promote walkability along Lavista and Montreal Roads, particularly as other properties nearby are redeveloped and will be accessible to riders of MARTA bus routes 30 and 125. The proposal does bring the property into greater conformance with building placement, lot coverage, and landscaping, making for a more attractive corner than the existing conditions. This could induce more redevelopment in the surrounding 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.**

There are no transitional buffers required with this site.

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

There is adequate provision of refuse and service areas. The applicant has included a designated screened dumpster that complies with code Section 46-1339.

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

Staff does not recommend any limits on the length of time of the special land use permit (if granted), so long as the applicant obtains all local licensing requirements including compliance with approved conditions and annual occupational tax certificate renewal.

**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.**

It is the staff’s opinion that the building size, mass, and scale will be appropriate in relation to surrounding land uses. Surrounding buildings include a one-story restaurant, a one-story shopping center, a one-story donut shop, a one-story fuel canopy and a two-story convenience store.

**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 property.

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



The proposed bank with a drive-through ATM is in compliance with the supplemental regulations for drive-through facilities [Sec. 46-1166. – Drive-through facility; restaurant].

**Sec. 46-1166. – Drive-through facility; restaurant.**

**Restaurants with drive-through services shall meet the following requirements:**

- (1) Drive-through facilities shall not be located within 60 feet of a residentially zoned property, as measured from any menu or speaker box to the property line of adjacent residential property.**

There are no residentially zoned properties within 60 feet of the drive-through lanes.

- (2) No drive-through facility shall be located on a property less than 10,000 square feet in area. Stacking spaces for queuing of cars shall be provided for the drive-through area as required in article VI of this chapter.**

The property is greater than 10,000 square feet, and the double drive-through configuration allows for adequate vehicle stacking.

- (3) Drive-through lanes and service windows shall be located to the side or rear of buildings. If on a corner lot, only the pickup window may be located on the side between the principal structure and a public street.**

The drive-through lanes and ATM structures are situated at the rear of the lot. There is no pickup window for the bank, and the ATM structures are not situated between the principal structure and the street.

- (4) Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.**

The drive-through structures appear to be designed with the same materials as the primary structure.

- (5) Speaker boxes shall be pointed away from adjacent residential properties. Speaker boxes shall not play music but shall only be used for communication for placing orders.**

There are no residentially zoned properties nearby.

- (6) Stacking spaces shall be provided for any use having a drive-through facility or areas having drop-off and pick-up areas in accordance with the following requirements. Stacking spaces shall be a minimum of ten feet wide and 25 feet long. Stacking spaces shall begin at the last service window for the drive-through lane (typically the "pick-up" window).**

The double drive-through configuration appears to comply with stacking requirements.

- (7) Financial institutions with drive-through windows, car washes (automated or staffed facilities), drive-through coffee sales facilities, and any other uses with drive-through facilities with the exception of restaurants with drive-through facilities, shall provide three stacking spaces for each window or drive-through service facility.**

The ATM structures have adequate stacking to meet this requirement.

- (8) Restaurants with drive-through facilities shall provide ten stacking spaces per lane for each window or drive-through service facility.**

Not applicable.

- (9) The following general standards shall apply to all stacking spaces and drive-through facilities:**

- a. Drive-through lanes shall not impede on and off-site traffic movements, shall not cross or pass through off-street parking areas, and shall not create a potentially unsafe condition where crossed by pedestrian access to a public entrance of a building.**

Drive-through lanes are proposed for the southwestern section of the property and do not cross or pass through off-street parking, nor must they be crossed by a pedestrian to reach the primary building on the site.

- b. Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked or otherwise distinctly delineated.**

Lane striping is shown on the site plan for the drive-through lanes and the bypass lane.

- c. All drive-through facilities shall include a bypass lane with a minimum width of ten feet, by which traffic may navigate around the drive-through facility without traveling in the drive-through lane. The bypass lane may share space with a parking access aisle.**

The application complies with this regulation.

- (10) Drive-through lanes must be set back five feet from all lot lines and roadway right-of-way lines.**

The application complies with this regulation.

- 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 use has a single-story building. It will not produce an adverse shadow effect.

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

There are several drive-through facilities, both restaurants and otherwise, located near this site, including the Captain D's Seafood Kitchen on the adjacent parcel to the south. However, there does not appear to be a disproportionate proliferation of financial drive-through facilities in the area.

**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.**

**Town Center Character Area.** While the proposal strays from the intent of the Town Center Character Area to create a more pedestrian-oriented environment and reduce automobile travel, it is not in conflict with the strategies of the Town Center Character Area to improve transit connections and encourage a relatively high-density mix of uses to serve a regional market area. The site includes a new sidewalk on Montreal Road, which will have a streetscape design that is pedestrian-oriented with strong, walkable connections between properties and uses around the City.

**CONCLUSION**

While the proposed use is not entirely consistent with the Town Center Character Area, staff does not believe this use would cause a disproportionate proliferation of drive-through facilities or be detrimental to the intents of the NL-1 zoning district and the Town Center Character Area. Redevelopment of this property will increase greenspace and sidewalks, which could eventually spur more redevelopment and walkability.

**Concurrent Variance (CV-24-0003) – Minimum Storefront Fenestration Requirements**

Code Section 46-1040(g) requires ground floor storefront fenestration along a public street for at least 65 percent of the exterior façade area. This requirement is intended to create a more active and open storefront, particularly when aligned with pedestrian-oriented improvements. Because this parcel of land is a corner lot, there are ground floor storefront fenestration requirements on two building elevations.

**A concurrent variance is requested to decrease the minimum fenestration percentage of the Lavista Road elevation from 65% to 46.7% and the Montreal Road building elevation from 65% to 32.7%**

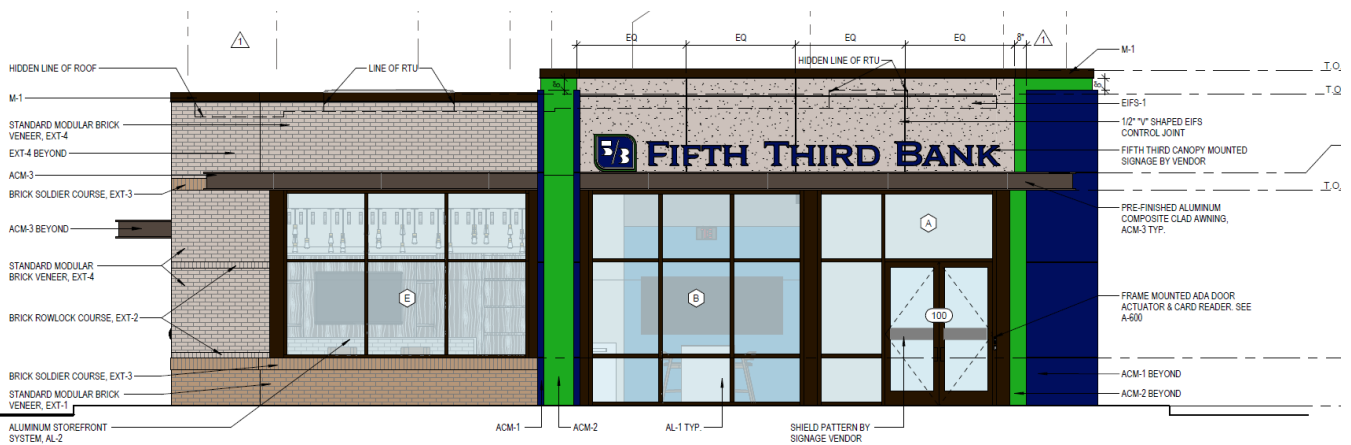


Figure 5. Lavista Road Elevation with 46.7% Fenestration.



Figure 6. Montreal Road Elevation with 32.7% Fenestration.

Criteria for variance approval are provided in Section 46-1633 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.**

Located on a corner lot fronting an angular intersection of a major collector (Montreal Road) and a minor arterial (Lavista Road/SR 236), the presence of two street frontages triggers storefront transparency requirements of 65% on two sides of the primary bank building. The applicant was able to work with staff to bring both elevations close to compliance but found that the layout of the interior and security requirements for the bank presented challenges to achieving 65% transparency. Corner lots have the additional challenge of two front setbacks, which limits the ability to adapt the building design in a meaningful way, especially on smaller parcels. The Lavista Road elevation includes 46.7% fenestration, but it reads as a pedestrian friendly façade with ample glazing and architectural detail. The secondary elevation on Montreal Road contains 32.7% glazing. Although this is roughly half of the requisite glazing, the elevation includes windows, canopies, a door, and several belt courses to create enough architectural interest to create an engaging storefront and meet the spirit of the regulation.

- 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 does not go beyond the minimum necessary to afford relief. Granting a concurrent variance to allow 46.7% fenestration on Lavista Road and 32.7% fenestration on the Montreal Road elevation is the minimum necessary for this project. The applicant worked with

staff to ensure the building met other architectural requirements for all building elevations, including building materials and pedestrian entrance requirements.

**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.**

Granting this variance would not be materially detrimental to the public welfare or injurious to the property and improvements in the NL-1 zoning district. It is likely that passersby would view the Lavista Road elevation as amply glazed and pedestrian friendly. Although the Montreal Road elevation has only 32.7% glazing, it still includes several large windows and a pedestrian entrance.

**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 could cause undue and unnecessary hardship as requiring substantial fenestration on the Lavista Road and Montreal Road elevations would not allow for the elements necessary to the function of the primary building.

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

The requested variance is primarily consistent with the spirit and purpose of this chapter and the Comprehensive Plan Text. It is the intent of the Northlake zoning districts to promote redevelopment and improved aesthetics, which this project achieves. 3925 Lavista Road is in the new Town Center Character Area of the Comprehensive Plan, which promotes the concentration of higher intensity residential and commercial uses in order to reduce automobile travel, promote walkability, and increased transit usage. While a bank with drive-through facilities may not do much to immediately reduce automobile travel, the redevelopment of the parcel with sidewalks and increased greenspace could trigger more redevelopment and walkability. By including a variety of architectural features, such as canopies, doors, and belt courses, the elevations meet the spirit of creating developments that attract pedestrians.

**Conclusion:** Staff recommends **APPROVAL** of **CV-24-0003**.

### **Concurrent Variance (CV-24-0004) – Minimum Front Setback**

The City of Tucker Zoning Ordinance includes dimensional requirements for the Northlake special zoning districts, including a 0' minimum front setback / 20' maximum front setback for properties in the NL-1 zoning district. Code Section 46-1036 (Dimensional requirements) includes a provision stating, "buildings may exceed the maximum setback to allow for stoops, front porches, balconies, canopies, or steps, a public space or park, and or outdoor dining." The applicant's submitted site plan does not meet this provision along Lavista Road.

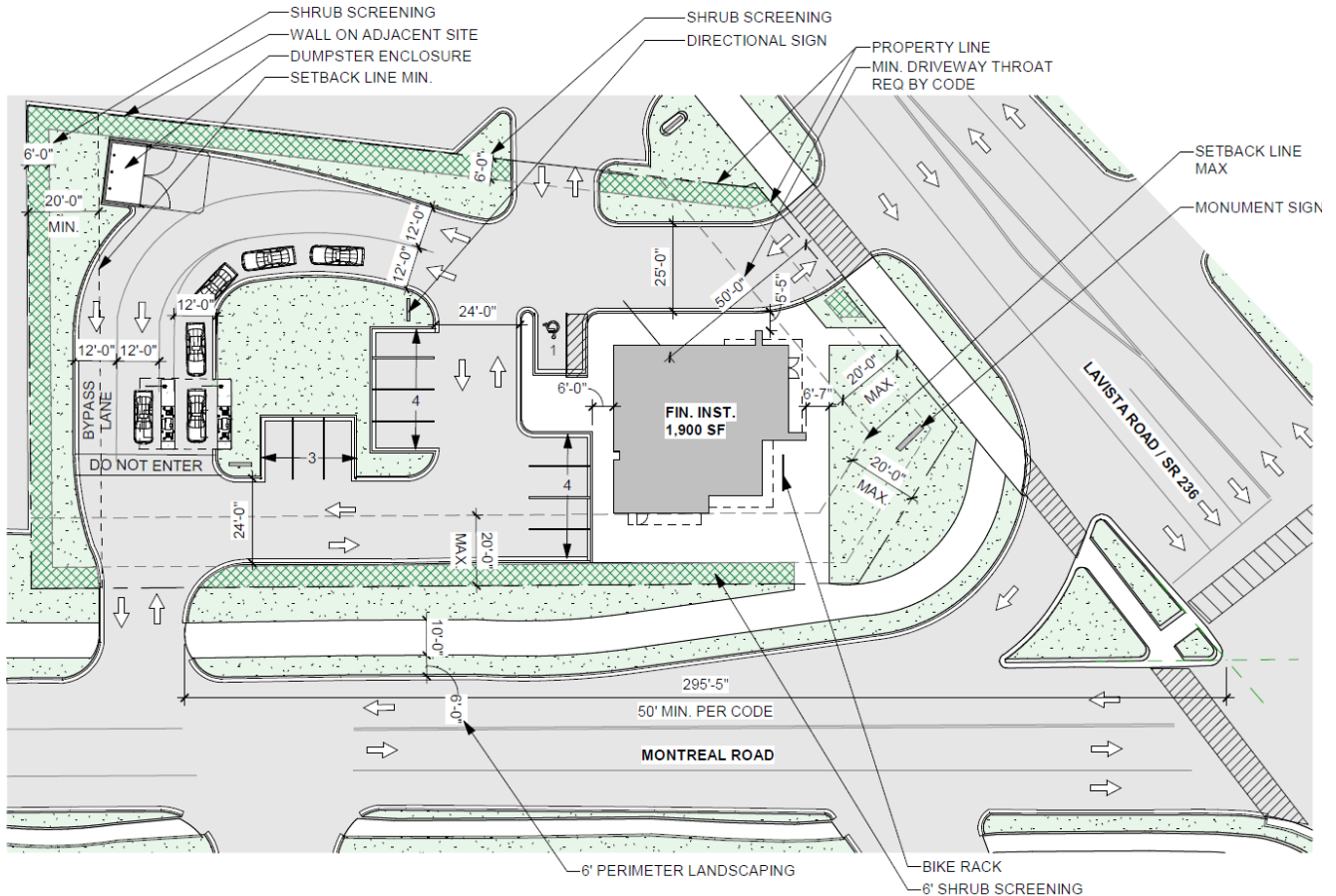


Figure 7. Proposed site plan showing 0' and 20' front setbacks along Lavista and Montreal Roads.

**A concurrent variance is requested to increase the maximum setback along Lavista Road by two feet at the smallest point, and 14 feet and four inches at the largest point.**

The acute angle of the intersection of Lavista and Montreal Roads creates an irregularly shaped corner lot that makes it difficult to place a building within the minimum/maximum setback lines. Building placement is further inhibited by a transportation requirement for a fifty-foot driveway throat along Lavista Road. Although the designer was able to locate the Montreal Road side of the building along the twenty-foot maximum setback line, the angular nature of the site makes it quite difficult to place the Lavista Road side of the building within the setback lines. The variance request is to exceed the maximum twenty-foot setback on Lavista Road by about two feet at the northwestern corner of the building, to as much as fourteen feet and four inches closer to the intersection.

Criteria for variance approval are provided in Section 46-1633 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.**

Due to the irregular shape of the corner lot, it is difficult to place a building squarely into the minimum/maximum building setback lines along both roads. Pushing the building toward one set of front setback lines moves it farther away from the other set of front setback lines.

- 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 does not go beyond the minimum necessary to afford relief. The designer has tried to situate the building as close to both roads as regulated by the zoning ordinance.

- 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 will not be materially detrimental to the public welfare. Although the building will not be located within the minimum/maximum setback lines along Lavista Road, the area will include pedestrian paths and grassy areas which are not unattractive. Additionally, due to the unique angular nature of the lot, a larger setback may serve to improve intersection visibility at Lavista and Montreal Roads. The use of landscaping between the building and the street also helps to improve the aesthetics of the intersection.

- 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 could cause undue and unnecessary hardship, as it would require an angular building design that could prohibit the interior layout of necessary building functions.

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

The intent of the Town Center Character Area calls for improving walkability and enhancing the pedestrian experience. Typically, this is achieved by bringing buildings closer to the road. Corner lots, however, are unique and often benefit from the increased visibility and plaza like feeling of an increased setback. Because of the corner lot, staff believes the variance request is consistent with the spirit and purposes of this chapter and the Comprehensive Plan.

**Conclusion:** Staff recommends **APPROVAL of CV-24-0004.**

## Concurrent Variance (CV-24-0005) – Maximum Park Requirements

Table 6.2, Parking Ratios, in Code Section 46-1452 stipulates a minimum of one parking space per each 500 feet of floor area for office (bank) use, and a maximum of one parking space per each 250 square feet of floor area.

At 1,900 square feet, the proposed bank building requires a minimum of four (4) parking spaces and is permitted a maximum of eight (8) parking spaces. The site plan shows twelve (12) spaces, including one (1) ADA space close to the building.

**A concurrent variance is requested to increase the maximum parking ratio to one parking space per each 167 square feet of floor area.**

Criteria for variance approval are provided in Section 46-1633 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.**

Although this lot has an irregular shape, the staff does not believe that the lot shape or site conditions impact the parking requirements of the proposed bank with double drive-through.

- 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 may go beyond the minimum necessary to afford relief as it would appear a large portion of the bank business will be conducted through the double drive-through. However, a larger branch building could fit on the property which would allow for additional parking spaces.

- 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 may not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district as the proposal has adequate land to provide additional parking. Staff will note that none of the proposed parking spaces are located between the building and the street, so they are screened from the view of the public.

- 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 could cause undue and unnecessary hardship as it appears that additional parking spaces are needed for the bank to function. While they are exceeding the maximum allowed parking spaces, the parking lot is still relatively small with only 12 spaces. Additionally, the property currently has approximately 48 spaces for Kacey's. If approved, there would be a large decrease in the total number of spaces.

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

The proposed variance is not entirely in line with the spirit and purpose of this chapter and the Comprehensive Plan. The Town Center Character Area calls for improving walkability and enhancing the pedestrian experience, however, there is still a net decrease in the total parking spaces.

**Conclusion:** Staff recommends **DENIAL of CV-24-0005.**

## Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL WITH CONDITIONS** of **SLUP-24-0003, CV-24-0003, and CV-24-0004**. Staff recommends **DENIAL of CV-24-0005**.

1. The property shall be developed in general conformance with the site plan stamped "RECEIVED City of Tucker June 10, 2024 Planning and Zoning Department".
2. The minimum fenestration for the bank building shall be reduced to 46.7% on Lavista Road and to 32.7% on Montreal Road, per the elevations stamped "RECEIVED City of Tucker June 10, 2024 Planning and Zoning Department" (CV-24-0003).
3. The maximum setback along Lavista Road shall be increased between two feet and fourteen feet, four inches, per the site plan stamped "RECEIVED City of Tucker June 10, 2024 Planning and Zoning Department" (CV-24-0004).
4. A landscape plan shall be submitted with the Land Disturbance Permit (LDP), subject to review and approval of the Community Development Director. The plan must meet the tree density requirement of thirty (30) tree density units per acre.
5. A mix of trees, shrubs, and ground cover shall be planted in the landscape strip on the western and southern sides of the property, and along Montreal and Lavista Roads, per the site plan stamped "RECEIVED City of Tucker June 10, 2024 Planning and Zoning Department", to screen the appearance of the travel lanes and parking from adjacent properties and the streets.
6. The drive-through canopies, windows, and lanes shall comply with the requirements of Section 46-1045 and Section 46-1166.

7. The existing ground sign on the property shall be removed, including the posts and base.
8. A stormwater detention plan must be submitted with the Land Disturbance permit application.
9. Owner/Developer shall construct a six-foot (6') wide sidewalk with a two-foot (2') grass strip along the entire frontage of Montreal Road.
10. The development shall be limited to one (1) right in/right out only driveway on Lavista Road.
11. If interparcel access is to be provided with the adjacent property, a recorded access agreement must be provided.
12. Owner/developer must coordinate any improvements on Lavista Road with the Georgia Department of Transportation's upcoming operational improvement project (Ops ID #20-7060).
13. Owner/developer shall dedicate additional right-of-way along the entire frontages of Lavista Road and Montreal Road such that there is a minimum of forty feet (40') from the centerline of the road, or two feet (2') from the back of sidewalk, whichever is greater.