

# Agenda Item

File ID: 2023-0339

Substitute

8/22/2023

Public Hearing: YES  NO

Department: Planning and Sustainability

## SUBJECT:

Commission District(s): County-wide

**Application of David Kirk for a Special Land Use Permit (SLUP) to allow the construction and operation of a restaurant with a drive-through on a portion of the property located in the C-1 (Local Commercial) Zoning District, at 3507 Memorial Drive.**

Petition No.: SLUP-23-1246386

Proposed Use: Restaurant with a drive-through configuration

Location: 3507 Memorial Drive, Decatur, Georgia 30032

Parcel No.: 15-200-02-040

Information Contact: Brandon White, Current Planning Manager

Phone Number: 404-371-2155

## PURPOSE:

Application of David Kirk for a Special Land Use Permit (SLUP) to allow the construction and operation of a restaurant with a drive-through on a portion of the property located in the C-1 (Local Commercial) Zoning District, at 3507 Memorial Drive.

## RECOMMENDATION:

**COMMUNITY COUNCIL:** Denial.

**PLANNING COMMISSION:** Denial.

**STAFF RECOMMENDATION:** Approval with conditions.

**PLANNING STAFF ANALYSIS:** The applicant, David Kirk of Troutman Pepper Hamilton Sanders, is seeking a special land use permit (SLUP) to redevelop a portion of the subject property and construct an outparcel drive-through restaurant within the northeast corner of the Belvedere Plaza shopping center. Currently, the space is vacant but previously operated as a multitenant building with a clothing store, recording studio, barber shop, insurance agency, tax office, and two (2) non-drive-through restaurants. The site may be adequate for the proposed use. Adverse impacts based on the manner and time of operation should be minimal as the applicant has stated the business hours would reflect surrounding establishments. The proposal appears to have addressed applicable supplemental regulations. The request is subject to SLUP approval with C-1 (Local Commercial) zoning when located in an activity center. The subject property is located in the Belvedere Town Center (TC) activity center. The subject property is also included in the study area for the Belvedere Master Active Living Plan (MALP Small Area Plan-2013). While the TC activity center generally promotes mixed-use development, reduced automobile travel; walkability; and increased transit usage, the small area plan provides more targeted recommendations. Near the core of this town center activity center, it is the desire of the community to see the site redeveloped in a manner consistent with the Comprehensive Plan (up to 80DUs/acre, and a mixture of residential and nonresidential uses at the core). The proposed SLUP to allow for a drive-through facility—a primarily automobile

dependent use—may inherently pose challenges to the transition and evolution of the surrounding area towards many of the land use goals of this activity center. However, community sentiment towards past drive-through proposals in this area has been favorable. The Board of Commissioners recently approved a Dunkin Donuts drive-thru on an outparcel of this site of Memorial Drive in November 2022. Staff recommends approval with conditions.

**PLANNING COMMISSION VOTE: Denial 7-0-0.** Jon West moved, Jan Costello seconded for Denial. Vivian Moore was not present for this vote.

**COMMUNITY COUNCIL VOTE/RECOMMENDATION: Denial 6-1-0.** Discussion included whether fast food drive through uses were appropriate in a Town Center Character Area calling for more pedestrian oriented uses.

**SUBSTITUTE**  
**SLUP-23-1246386**  
**2023-0339**  
**Recommended Conditions**  
**07/10/2023**

1. Uses on the portion of the subject property designated for a “drive-through” restaurant (the “Drive-through Parcel”) shall be restricted as follows:
  - a) The Drive-through Parcel shall not contain a drive-through restaurant primarily selling hamburgers, fried fish, or items containing deep fried, bone-in chicken pieces other than an incidental sale, with the term “incidental sale” being defined as a maximum of 3 menu items that consist of a hamburger or other similar product in sandwich form, a maximum of 3 menu items that contain fried fish, or a maximum of 3 menu items that contain deep fried bone-in chicken pieces.
  - b) The Drive-through Parcel shall not contain a beauty supply store.
  - c) The Drive-through Parcel shall not contain a package store.
2. The restaurant located on the Drive-through Parcel shall have indoor customer seating in addition to a maximum of two drive-through service lanes.
3. The restaurant located on the Drive-through Parcel may have drive-up service spaces for direct customer and meal delivery service pick-up.
4. The site plan and elevation drawings provided with the application are for conceptual purposes only and may be modified with the approval of the Current Planning Manager.
5. Building shall have windows and/or doorways that occupy at least twenty-five (25) percent of the width of the first-floor street-level front façade per Section 5.7.7.B.2.b of the Zoning Ordinance.
6. Internal sidewalks shall connect the proposed building to the sidewalk along Columbia Drive.
7. Applicant shall incorporate two walk-up menu boards and a walk-up order window to encourage pedestrian activity.

**DeKalb County, Georgia**  
**Property Owner Agreement to Conditions of Approval**  
**SLUP-23-1246386**  
**3507 Memorial Drive**

On behalf of Hutton Belvedere LLC, the Owner of the property identified above that is subject to the above-referenced Special Land Use Permit application to allow for the construction and operation of a restaurant with a drive-through (the "Application"), I hereby agree to the Substitute Recommended Conditions attached hereto, dated July 10, 2023, should the Application be approved by the DeKalb County Board of Commissioners.

This 21<sup>st</sup> day of August, 2023.

*David C. Kirk*

Signature

DAVID C. KIRK

Name

Attorney for  
Hutton Belvedere LLC

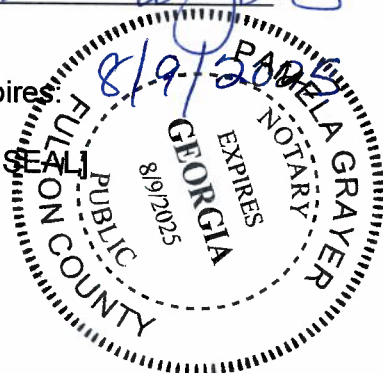
Title

Sworn to and subscribed before me  
this 21<sup>st</sup> day of August, 2023.

*Pamela Gray*  
Notary Public

My Commission Expires 8/19/2025

[NOTARIAL SEAL]



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