



## Legislation Details (With Text)

**File #:** 2023-1146    **Version:** 1    **Name:**  
**Type:** Ordinance    **Status:** Public Hearing  
**File created:** 9/12/2023    **In control:** Board of Commissioners  
**On agenda:** 12/17/2024    **Final action:** 2/11/2025  
**Title:** COMMISSION DISTRICT(S): Commission District 2 Super District 6  
Application of Fariz Morani for a Special Land Use Permit ( SLUP) to build and operate a restaurant with drive through in a C-2 (General Commercial) zoning district within a Town Center (TC) Activity Center, at 1726 Church Street.

### Indexes:

**Attachments:** 1. SLUP-23-1246650 May 2024 BOC Staff Report 1726 Church Street, 2. SLUP-23-1246650 March 2024 Staff Report 1726 Church Street, 3. SLUP-23-1246650 Nov 2023 Staff Report 1726 Church Street

Date	Ver.	Action By	Action	Result
2/11/2025	1	Board of Commissioners	withdrawn	Pass
2/11/2025	1	Board of Commissioners	reconsidered	Pass
2/11/2025	1	Board of Commissioners	withdrawn without prejudice	Pass
12/17/2024	1	Board of Commissioners	deferred	Pass
10/22/2024	1	Board of Commissioners		
10/8/2024	1	Board of Commissioners		
9/24/2024	1	Board of Commissioners		
7/23/2024	1	Board of Commissioners		
6/25/2024	1	Board of Commissioners		
5/23/2024	1	Board of Commissioners - Zoning Meeting		
3/28/2024	1	Board of Commissioners - Zoning Meeting	deferred	Pass
3/5/2024	1	Planning Commission	deferred for a full cycle	Pass
11/16/2023	1	Board of Commissioners - Zoning Meeting	deferred for two full cycles	Pass
11/2/2023	1	Planning Commission	denial per staff recommendation	Pass

**Public Hearing:** YES ☒ NO ☐

**Department:** Planning & Sustainability

### SUBJECT:

#### **COMMISSION DISTRICT(S): Commission District 2 Super District 6**

Application of Fariz Morani for a Special Land Use Permit ( SLUP) to build and operate a restaurant with drive through in a C-2 (General Commercial) zoning district within a Town Center (TC) Activity Center, at 1726 Church Street.

**PETITION NO: D4-2023-1146 SLUP-23-1246650**

**PROPOSED USE: Restaurant with drive-through.**

**LOCATION:** 1726 Church Street, Decatur, Georgia 30033

**PARCEL NO. :** 18-062-03-001

**INFO. CONTACT:** John Reid, Sr. Planner

**PHONE NUMBER:** 404-371-2155

**PURPOSE:**

Application of Fariz Morani for a Special Land Use Permit ( SLUP) to build and operate a restaurant with drive through in a C-2 (General Commercial) zoning district within a Town Center (TC) Activity Center.

**RECOMMENDATION:**

**COMMUNITY COUNCIL:** (Feb. 13, 2024) Approval with conditions. (Oct. 10, 2023) Denial.

**PLANNING COMMISSION:** (March 5, 2024) Full-Cycle Deferral. (Nov. 2, 2023) Denial.

**PLANNING STAFF:** Denial.

**STAFF ANALYSIS:** The request is to demolish the existing building on the property and construct a new restaurant with a drive through configuration (i.e., a drive-through coffee establishment). This request was deferred for two cycles from the November 16, 2023 Board of Commissioners Zoning Meeting to allow the applicant more time to meet with the surrounding community. District 2 Community Council recommended approval with the following conditions at its February 13, 2024 meeting: 1. A site plan be provided which is consistent with the marked-up aerial diagram; and 2. Sales are limited to coffee only. Since the District 2 Community Council meeting the applicant has provided a concept plan which shows that there is proposed access to both the connector street and from Church Street (see attached). The site is located within a Town Center (TC) activity center character area and the Medline LCI designated by the *DeKalb 2050 Unified Plan*. Although there are existing drive-through establishments along Scott Boulevard and Church Street, the addition of a new drive-through restaurant does not meet the intent and vision of the TC Character Area and Medline LCI calls for higher intensity residential and commercial uses which serve several surrounding communities, in order to reduce automobile travel, promote walkability, and increase transit usage (*2050 Unified Plan, page 33* ). Additionally, the proposed drive-through restaurant is not located at the edge of the TC Character Area where auto-oriented uses may warrant consideration, instead the subject property is located in the center of the character area where pedestrian oriented, high-density mixed-use projects are desired. The subject property falls within a large subarea of the Medline LCI classified as “*Medline Core Area*” located on the southeast side of Scott Boulevard and extending to properties along both sides of DeKalb Industrial Way and North Decatur Road (see enclosed). The Medline Core subarea calls for high density residential (up to 60 dwelling units per acre) with building heights between 3 and 5 stories (Pg. 2). Since the subject property is small and oddly shaped, the subject property would likely have to be consolidated with some of the adjacent and surrounding properties and rezoned to a mixed-use zoning district to allow for the development opportunities envisioned by the policies and strategies of either the TC Character Area or the Medline Core subarea of the Medline LCI. Alternatively, applicable variances (including but not limited to minimum building setbacks and parking spaces) could be sought by the property owner for the subject property under the current C-2 (heavy commercial) zoning district which allows a wide variety of commercial uses. Such variances would be considered on their merits by the Zoning Board of Appeals. The site is a nonconforming lot measuring 22,651 square feet and does not comply with the minimum lot area for C-2 zoning, which requires 30,000 square feet. Allowing a drive-through use to encourage more traffic on this small, non-conforming site may cause more

traffic congestion in the area and be a burdensome use of transportation infrastructure. While the applicant indicates that there is compliance with all drive-through supplemental regulations per Section 4.2.23, this cannot be verified since the submitted plan is not drawn to scale or detailed enough (see enclosed “*Church Street Revised Site Plan*”). Furthermore, due to the small size of the property, it appears that the site may not be able to comply with all of the right-of-way dedication requirements, sidewalks, and landscape improvements required by the DeKalb County Transportation Department (see enclosed inter-departmental comments for required improvements). If the SLUP were approved several variances would have to be approved by the Zoning Board of Appeals prior to the issuance of any permits. No new information has been submitted to the Planning Department since the November 16<sup>th</sup> Board of Commissioners meeting. Upon review of Section 7.4.6.H (Compliance with policies of Comprehensive Plan), 7.4.6.A (Adequate site size to accommodate proposed use) and 7.4.6D (Sufficient traffic carrying capacity) of the *Zoning Ordinance*, it is the recommendation of the Planning and Sustainability Department that the Special Land Use Permit (SLUP) for a drive-through restaurant on the subject site be “Denied”.

**PLANNING COMMISSION VOTE: (March 5, 2024) Full-Cycle Deferral 5-3-0 (Final motion).** Sarah Zou moved, Edward Patton seconded for a full cycle deferral to the May 2024 zoning agenda to allow time for the applicant to make sidewalk, parking/biking improvements. Jana Johnson, Deanna Murphy, & Jon West opposed. (The 1<sup>st</sup> motion to deny failed, 3-5-0.) **(Nov. 2, 2023) Denial 8-0-0.** Deanna Murphy moved, Jan Costello seconded for denial, per Staff recommendation.

**COMMUNITY COUNCIL VOTE/RECOMMENDATION: (Feb. 13, 2024) Approval with conditions 6-3-0** that 1) The Applicant supply a future site plan with no major changes from the presented diagram; and, 2) Sales be limited to coffee only. **(Oct. 10, 2023) Denial.** Community Council District 2 voted for denial because the applicant failed to appear before the board to answer questions and hear from the community. Additionally, there were questions regarding vehicle egress and ingress and neighborhood notification.