



Land Use Petition: SLUP-26-0003
Planning Commission: April 16, 2026
Mayor and City Council, 1st Read: May 11, 2026
Mayor and City Council, 2nd Read: June 8, 2026

PROJECT LOCATION:	4453 Hugh Howell Road
APPLICATION NUMBER:	SLUP-26-0003
DISTRICT/LANDLOT(S):	18 th District, Land Lot 214
ACREAGE:	± 33,057 sf/0.76 acres
EXISTING ZONING:	C-1 (Local Commercial)
EXISTING LAND USE:	Vacant/former Wendy's restaurant with drive-through
FUTURE LAND USE MAP DESIGNATION:	Light Industrial
OVERLAY DISTRICT:	N/A
APPLICANT:	Dale Friedly/Warner Summers, Inc.
OWNER:	WENDYS TUCKER FS LLC [MTO Tucker Hugh Howell Rd, LLC under contract to purchase]
PROPOSED DEVELOPMENT:	SLUP to allow a drive-through restaurant
STAFF RECOMMENDATION:	Approval with conditions of SLUP-26-0003 (restaurant with drive-through)

Project Data and Background

The applicant, Dale Friedly of Warner Summers, Inc, is requesting a Special Land Use Permit (SLUP) for the property located at 4453 Hugh Howell Road to allow for a restaurant with a drive-through configuration in the C-1 (Local Commercial) zoning district. The subject parcel is approximately 0.76 acres and has frontage on Hugh Howell Road.

Drive-through facilities are permitted in the C-1 zoning district only via a Special Land Use Permit (SLUP), which ensures alignment with the City of Tucker's Comprehensive Plan and surrounding developments. While the property previously operated as a Wendy's, the drive-through's legal nonconforming status expired after the site remained vacant for over six months. The restaurant has been closed since at least July 2025. Staff will note that prior to August 11, 2025, drive-through restaurants were permitted by right in the C-1 zoning district. This code change occurred as part of O2025-06-12.



Figure 1. Pictometry image from DeKalb County Tax Assessor.

Nearby drive-through facilities include Cook Out, Zaxby's, and Chick-fil-A. While Cook Out is zoned C-1 and located in the Light Industrial Character Area, Chick-fil-A and Zaxby's are located in the DT-2 zoning district and the Downtown Character Area. Cook Out and Zaxby's predate the City of Tucker's incorporation, but the relocation of Chick-fil-A back in 2023 required a SLUP. A key consideration in that case was that Chick-fil-A was relocating and was willing to demolish their previous building so there was no net increase in the total number of drive-throughs in the area.



Figure 2. Google Street View, January 2026

The applicant proposes renovating the existing 2,653-square-foot building that has been a Wendy's with a drive-through since constructed in 1977. The building has remained vacant since closure in the summer of 2025. Proposed improvements include removing the front solarium to create an open-air dining area, refreshing the building facades, and replacing the non-conforming ground sign with a modern monument sign. Site enhancements include a nearly 10% reduction in impervious cover, restoration of a 50-foot rear transition buffer, the addition of two tree islands in the parking lot, and a new dumpster enclosure outside the buffer zone. No new curb cuts are proposed for Hugh Howell Road, and the final interior area will be reduced to 2,444 square feet. The applicant is not requesting any concurrent variances.

To comply with the drive-through supplemental regulations in Code Section 46-1166, the applicant has worked with staff to modify the site layout. While the plan utilizes the existing drive-through and bypass lanes, the menu ordering station—previously located at the rear with a speaker box facing residential neighbors—has been relocated. This change ensures the speaker is no longer directed toward adjacent properties, and meeting city standards for car stacking, bypass lanes, and service window placement.

Whataburger is a national restaurant chain founded in Corpus Christi, Texas in 1950. As of 2025, there are locations in 17 states, including 40 existing restaurants in Georgia. Some of the Georgia facilities are open 24/7, which is the intended schedule for the Tucker restaurant. In their pre-application meeting with staff, the applicant group stated having 24/7 operations was a crime deterrent and expressed the common refrain that drive-through facilities greatly helped their business operations throughout the COVID-19 pandemic, and that drive-through configurations are the primary driver of their business operations.



Figure 3. Proposed Whataburger renovations

USE ANALYSIS AND DEVELOPMENT PERMISSIONS

Sec. 46-758 of the zoning ordinance states “The purpose and intent of the mayor and city council in establishing the C-1 (Local Commercial) District is as follows:

- (1) To provide convenient local retail shopping and service areas within the city for all residents;
- (2) Reserved;
- (3) To provide for quality control in development through materials and building placement;
- (4) To ensure that the uses authorized within the C-1 (Local Commercial) District are those uses which are designed to serve the convenience shopping and service needs of groups of neighborhoods;
- (5) To implement the future development map of the city’s most current comprehensive plan.”

Drive-through restaurants in the C-1 zoning district require a SLUP and reviewal on a case-by-case basis to ensure compatibility with the surrounding area, the intent of the zoning district and the future land use designations in this area of the city.

CHARACTER AREA (Future Land Use)

Designated as Light Industrial on the Future Land Use Map, the subject property serves as a transitional area between downtown Tucker and the Mountain Industrial Boulevard Overlay District. The site fronts Hugh Howell Road, a minor arterial and vital connector (formerly State Route 236).

The surrounding area is characterized by a mix of uses:

- North: The Shops of Heritage Place, containing various restaurants, retail, and medical offices.

- West & East: Cultural and professional hubs, including The Brio theater, insurance offices, and automotive services.
- South: The property directly abuts residential parcels, requiring thoughtful site transitions.

The **Light Industrial Character Area** is vital to Tucker’s economy, focusing on low-intensity manufacturing and distribution that limits external nuisances. According to the *Tucker Tomorrow 2023 Comprehensive Plan Update*, "accessory commercial" uses such as restaurants are encouraged to support these industrial businesses. The proposed drive-through is intended to provide convenience for local families and the workforce.

To align with the City’s goal of enhancing the visual appeal of industrial corridors and protecting adjacent residential areas, the applicant proposes several key enhancements that improve the site aesthetics and regulatory compliance. By replacing the old front solarium with an open-air dining patio, the building has a friendlier street facing appearance. Additionally, the removal of the enclosure reduces the encroachment into the front setback. By introducing formal landscaping design standards, the aesthetics are improved and the fifty (50) foot transitional buffer is restored to protect the residential properties to the south. Staff encouraged the applicant to incorporate other regulatory improvements, including the relocation of the drive-through speaker box and the dumpster enclosure, and the eventual incorporation of modern signage.

An important element of the light industrial area is public transportation. Following the implementation of the MARTA NextGen Bus Network on April 18, 2026, this corridor of Hugh Howell Road will maintain consistent service via Route 121.

PUBLIC PARTICIPATION PLAN REPORT

The applicant hosted a public participation meeting on February 24, 2026, at the Tucker-Reid H Cofer Library. 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 ten (10) people in attendance, including members of the applicant team, and the meeting lasted approximately one (1) hour. The applicant’s report lists questions regarding the size and height of the building, hours of operation, security, transitional buffer zone, timeline of project, percentage of drive-through business, students as employees, and property taxes.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning	Existing Land Use
Adjacent: North (across Hugh Howell Road)	C-1 (Local Commercial)	Shops of Heritage Place
Adjacent: East	C-1 (Local Commercial)	State Farm insurance office
Adjacent: South	R-75 (Residential Medium Lot-75)	Residential on Rosser Terrace
Adjacent: West	C-1 (Local Commercial)	The Brio



Figure 4. Aerial, Zoning, and FLU Maps.

SLUP-26-0003 – Drive-through

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.**

While the site is compact at approximately 37,057 square feet, the proposed plan satisfies all requirements for open space (10%), parking (17 spaces), and drive-through operations. In response to staff feedback, the applicant relocated the menu board and dumpster enclosure and restored a 50-foot rear transitional buffer to minimize the impact on adjacent residents. Unfortunately, the existing parking lot is paved up to the property line and does not allow for the placement of a five (5) foot perimeter landscape strip as any changes would cut into the required drive aisles.

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

The proposed restaurant and drive-through facility is consistent with the active commercial nature of Hugh Howell Road, a transitional area between downtown Tucker and the Mountain Industrial Boulevard Overlay District.

- 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. Alterations under 5,000 square feet do not trigger stormwater management requirements.

Water and sewer. The applicant will need to gain approval from DeKalb County Department of Watershed Management (DWM) to ensure water and sewer infrastructure can manage additional strain on the system from the proposed restaurant.

- 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 Trip Generation Report letter states that proposed use – “Fast Casual Restaurant with Drive Thru,” land use code 934 – will generate approximately 522 net new daily trips. That number includes 81 trips (41 entering /40 exiting) in the AM peak hour, and 77 trips (40 entering /37 exiting) in the PM peak hour. Staff will note that Whataburger intends to be open 24/7 and offers a complete menu, including breakfast items. The site currently contains two curb cuts, which is not ideal for traffic management, but does allow for a large green space between the building and the street. One curb cut would require the exit lanes to be located between the building and the street.

- 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 Hugh Howell Road would be adversely affected by the character of the vehicles or volume of traffic generated by the proposed drive-through restaurant. Hugh Howell Road has two lanes of traffic in each direction as well as a center turn lane. A single lane drive through is proposed, which is the same layout as the previous drive through establishment.

- 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.**

While the site plan offers adequate access, traffic concerns were raised at the neighborhood meeting. In response, the applicant has proposed using off-duty police to manage potential drive-through congestion. In order to improve pedestrian safety, staff recommends the inclusion of a pedestrian walkway to safely connect the public sidewalk to the restaurant.

- 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 development will not generate excessive noise, nor will it emit dust or vibrations. There is a possibility that odors from the cooking process could emanate beyond the site, which is not uncommon with restaurant uses.

- 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 restaurant proposes to operate 24 hours a day, seven days a week, closing only on Christmas Day. While these extended hours are inconsistent with the operating schedules of neighboring businesses and nearby residences, the applicant contends that a constant presence will improve safety. Specifically, they believe the 24-hour model will deter crime and loitering by ensuring the site remains active and well-lit at all times.

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.

It is unlikely that the proposed drive-through would impact the neighboring properties in an adverse way. The applicants have adjusted the site plan to mitigate impacts on the nearby residential properties and are willing to consider additional traffic management procedures if necessary.

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.

If approved by SLUP, the proposed drive-through restaurant will comply with the C-1 zoning district.

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

The proposed development is largely consistent with the adopted comprehensive plan. Development considerations for Light Industrial Character Area are to continue “the implementation of corridor improvements to enhance the visual appeal of the industrial areas, installing landscaping and other design measures to soften or shield views of buildings and parking lots and to connect to nearby networks of greenspace or trails.” The proposed renovation does include increased landscaping and aesthetics, as well as increased concern for pedestrians. Although this location is not along the city trail network, it is located near the edge of the industrial area along the MARTA 121 bus route.

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 fifty (50) foot class C buffer will be restored on this site, providing some protection for the residential properties to the south.

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 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 staff's opinion that the building size, mass and scale will be appropriate in relation to surrounding lots and buildings. The building at 4453 Hugh Howell Road, as well as the buildings on either side, are one story in height.

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 drive-through restaurant is in compliance with the supplemental regulations for restaurants with 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' of the drive-through lane. The ordering menu and speaker box will be approximately 90' from a residential property line.

- (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 subject property is more than 33,000 square feet, and the drive-through configuration accommodates the required minimum of ten minimum stacking spaces.

- (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 service window are situated along the rear and side of the building, although the stacking lane does commence at the front of the property.

- (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.**

A small drive-through canopy at the rear matches the building.

- (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.**

Unlike the former Wendy's, which had its drive-through audio directed toward the southern residences, the applicant has repositioned the speaker box to face away from the neighborhood to minimize noise disturbance and conform to regulations.

- (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 applicant is aware of the stacking space size requirement, and the stacking spaces shown on the site plan meet these conditions.

- (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.**

Not applicable.

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

The site plan shows conformance with stacking requirements.

- (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.**

The proposed site plan is largely compliant with the established standards. To further improve safety and accessibility, the plan includes a marked crosswalk connecting the ADA parking on the western property line directly to the building entrance.

- 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.**

Conformance with this standard is shown on the site plan.

- 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 is in compliance 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 is in compliance 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 will not produce an adverse shadow effect. The existing building will be remodeled without a significant change of height.

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

The three drive-through restaurants referenced earlier in this report all operate within 500' of this parcel, however, only one of them (Cook Out) is located in the Light Industrial Character Area. A drive-through ice cream shop, which is also in the Light Industrial Character Area, is located within 1000' of this parcel.

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 site is located in a transitional area in the Light Industrial character area, and the proposal complies with the City of Tucker supplemental regulations for drive-throughs. Additionally, the applicant has proposed building and site modifications to make the use more compatible with the objectives of the comprehensive plan and the surrounding area.

CONCLUSION

Drive-through restaurants offer convenience for commuters and families but have the potential for adverse impacts on adjacent properties, such as traffic congestion spilling onto public roads or noise pollution from ordering speakers. These concerns can be increased when the site abuts residential neighborhoods or pedestrian-oriented areas. The proposed Whataburger aligns with the established commercial and light-industrial character of the area and represents a consistent continuation of local land-use patterns in this transitional area.

Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL WITH CONDITIONS** of **SLUP-26-0003**.

1. The property shall be developed in general conformance with the site plan stamped "RECEIVED City of Tucker 03/05/2026 Planning and Zoning Department" with changes to meet these conditions.

2. The drive-through windows and lanes shall comply with the requirements of Section 46-1045 and Section 46-1166.
3. Owner/developer shall install a five-foot (5') pedestrian path to connect the public sidewalk to the outdoor dining area/front door of restaurant.
4. A fifty (50) foot class C transitional buffer is required to be installed and maintained along the southern property line. Owner/developer shall improve the area to fully comply with the buffer regulations in Sec. 46-1338.
5. Owner/developer shall install street trees and pedestrian streetlighting behind the existing sidewalk on Hugh Howell Road as part of the renovation process.
6. Owner/developer shall remove the existing ground sign during the renovation process. New signage shall comply with the current sign regulations in Section 34 of the ordinance.