

AN ORDINANCE FOR SPECIAL LAND USE PERMIT 19-0006 IN LAND LOT 214 OF THE 18th DISTRICT TO ALLOW FOR A DRIVE-THROUGH RESTAURANT.

WHEREAS: Notice to the public regarding said special land use permit have been duly published in The Champion, the Official News Organ of Tucker; and the Atlanta Journal Constitution; and

WHEREAS: A Public Hearing was held by the Mayor and City Council of Tucker on July 22, 2019, August 26, 2019, September 23, 2019, and October 28, 2019;

WHEREAS: The Mayor and City Council is the governing authority for the City of Tucker;

WHEREAS: The Mayor and City Council has reviewed the special land use request based on the criteria found in Section 46-1594 of the Zoning Ordinance of the City of Tucker;

NOW THEREFORE, the Mayor and City Council of the City of Tucker while in Regular Session on October 28, 2019 hereby ordains and approves Special Land Use Permit 19-0006 to allow for a drive-through restaurant, subject to the following conditions. Note that the special land use permit shall expire automatically if a building permit or other required approval(s) is not applied for within twelve (12) months and construction pursuant to such permit(s) does not promptly begin and is not diligently pursued (Section 46-1599).

1. The property should be developed in general conformance with the site plan submitted on June 10, 2019 to the Community Development Department, with revisions to meet these conditions. The applicant shall be allowed to build up to 11,200 square feet of building area and 52 parking spaces.
2. The open space behind the drive-thru restaurant shall be designed to meet the requirements for enhanced open space. A landscape plan shall be submitted with the Land Disturbance Permit, subject to the review and approval of the Community Development Director.
3. The storefront for the tenant space on the northeast corner of the site shall integrate a prominent entry feature and building design that activates the corner, with an entrance oriented toward the intersection.
4. The architecture of the development shall incorporate elements that complement the shopping center to the immediate north (Starbucks) and Hearthiside. Elements shall include unpainted brick in a similar color, fiber-cement, and metal accents.

5. The development shall be designed and constructed to meet the following standards and design requirements for the DT-3 zoning district:
 - a. Building form and design (3.2.10);
 - b. Streets and streetscapes (3.2.14.C-F);
 - c. Drive-thru facilities (3.2.15.B);
 - d. Parking (Lynburn Drive only) (3.2.16.C.2.a);
 - e. Landscaping (3.2.17);
 - f. Outdoor dining (3.2.18); and
 - g. Outdoor lighting (3.2.19).
6. A mix of trees, shrubs, and ground cover shall be planted in the landscape strip between the drive-thru restaurant and Lawrenceville Highway to screen the appearance of the drive-thru lane from the street.
7. Drive-through canopies and other structures, such as dumpster disclosures, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.
8. 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.
9. The drive-thru establishment shall close no later than 11:00 p.m.
10. Prior to issuance of the Land Disturbance Permit, the parcels shall be combined in accordance with the provision of Chapter 22 of the Code of Ordinances.
11. The Special Land Use Permit shall not be able to be transferred to another business.
12. The development shall be limited to one (1) full access entrance on Railroad Avenue and one (1) right in/right out only driveway on Lawrenceville Highway. The location of said entrances is dependent on adequate spacing and sight distance, and subject to the approval of the Tucker City Engineer and the Georgia Department of Transportation (GDOT). The Community Development Director shall be authorized to approve changes to the site plan in regards to the full access entrance and right in/right out entrance that result from requests by the Tucker City Engineer and/or GDOT.
13. Owner/Developer shall install a deceleration lane into the proposed driveway on Lawrenceville Highway, subject to the review and approval of the Tucker City Engineer and the Georgia Department of Transportation (GDOT).
14. Owner/Developer shall provide detention, water quality, and channel protection in accordance with the Georgia Stormwater Manual. Detention shall be provided for the 1 thru 100-year storm events with no increased runoff. For the purpose of these

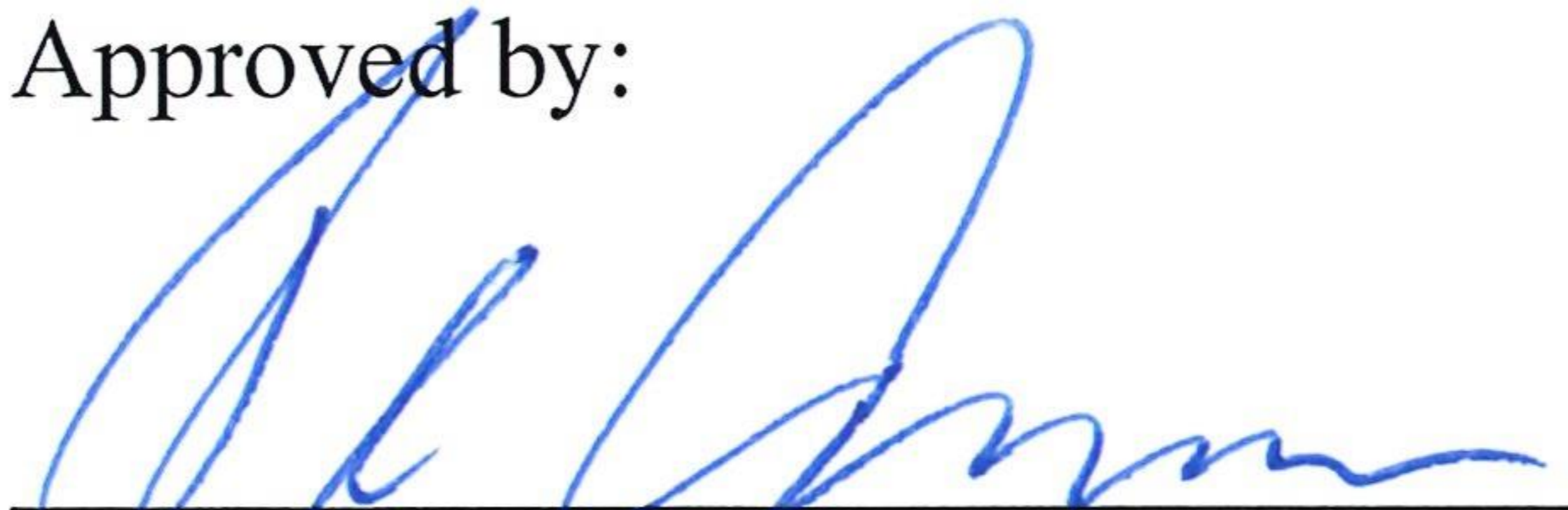
calculations, the existing runoff rate shall be considered to be a wooded, predeveloped condition.

15. Owner/Developer shall comply with Section 22-34 of the City of Tucker Code of Ordinances concerning tree protection and replacement. A minimum tree density of thirty (30) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree replacement units as required in the ordinance.
16. Water and sewer approval are required by the DeKalb County Department of Watershed Management.
17. Developer shall install some form of green stormwater infrastructure, subject to review and approval during the Land Development Permit process.
18. Owner shall dedicate along the entire frontage of Lynburn Drive such additional right-of-way as required to provide a minimum of twenty feet (20') from the existing back of curb. Owner shall install a seven foot (7') wide sidewalk and an eight foot (8') wide landscape strip along the entire frontage of Lynburn Drive. The improvements to Lynburn shall be completed in a way that would allow minimal disturbance of the sidewalk in the event a right turn lane is added in the future.
19. Owner/Developer shall dedicate along the entire frontage of Railroad Avenue such additional right-of-way as required to establish a minimum of twenty-five feet (25') from the centerline of Railroad Avenue. Further, and subject to any necessary approvals, Owner shall improve Burns Drive (a.k.a. Railroad Avenue) from the southern edge of the driveway to Lynburn Drive with twenty-two feet (22') of asphalt, a two foot (2') curb and gutter, and a twelve foot (12') landscape strip. Sidewalk shall not be required.
20. Developer shall install a seven foot (7') sidewalk with an eight foot (8') wide landscape strip along the entire frontage of Lawrenceville Highway from back of curb. Owner/Developer shall enter into an easement agreement giving the City of Tucker access along the entire frontage of Lawrenceville Highway from the back of the proposed sidewalk shown on the site plan submitted with this application to the existing right-of-way, at no cost to the City of Tucker, in lieu of a right-of-way dedication.
21. Setbacks, buffers, yards, and other zoning requirements shall be measured from the existing right-of-way, versus any future right-of-way that may be dedicated incidental to these conditions and/or development.
22. Parts of the subject property may be owned separately and/or conveyed as separate tracts and to separate owners with different ownership structures.
23. Should there be separate ownership of parts of the subject property and/or conveyance of a part of the subject property to different owners, all conditions and variances, if any, shall remain applicable to any part of the subject property, regardless of what person or entity owns the property.

24. Separate ownership of parts of the subject property by different owners shall not create non-conforming uses and shall not require any changes to the site plan submitted with this application nor any variances. The newly created property lines which arise from these conveyances are not required to observe setbacks, buffers or other zoning requirements, except as may be reflected on the site plan submitted with this application.

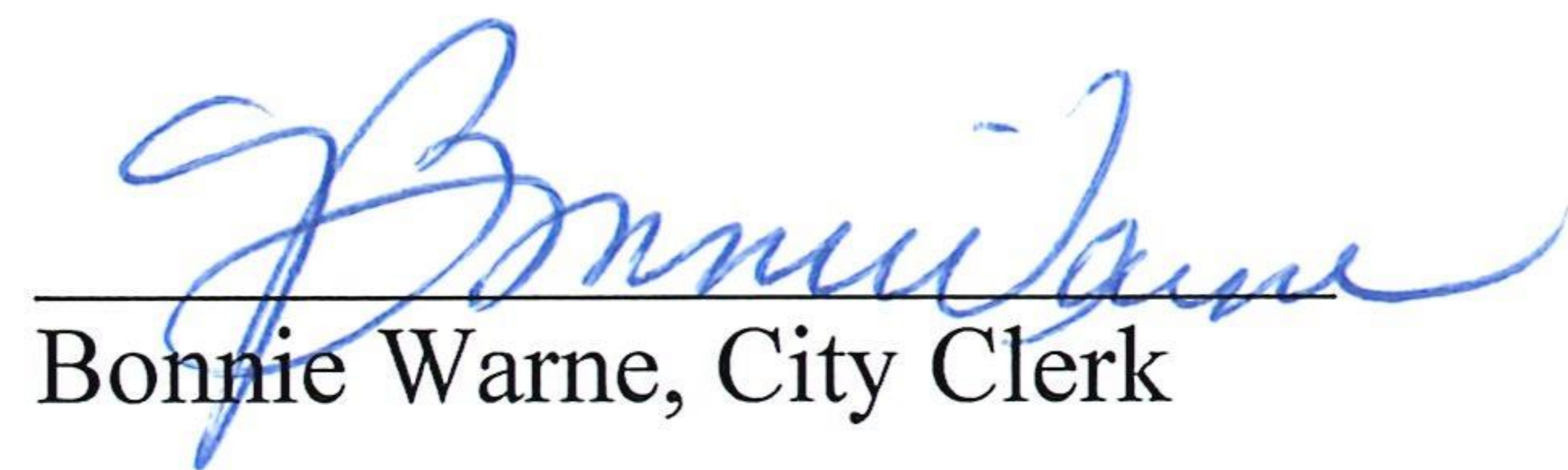
SO EFFECTIVE this 28th day of October 2019.

Approved by:



Frank Auman, Mayor

Attest:



Bonnie Warne, City Clerk

