



STAFF REPORT

HEARING DATE: February 7, 2018
STAFF REPORT DATE: January 31, 2018-
TO: Planning Commission
STAFF: Sandra Freund, AICP, Planning Supervisor/Development Process Coordinator *S.F.*
PROPOSAL: **CU2017-0013 – Chick-Fil-A Extended Hours of Operation**
LOCATION: 10655 SW Beaverton-Hillsdale Hwy
Tax Lot 16800 on Washington County Tax Assessor's Map 1S114BC
SUMMARY: The applicant, Chick-fil-A, has submitted a request for Extended Hours of Operation in order to accommodate one (1) semi-truck delivery from 5:00 am to 7:00 am; allow employees on premise in order to assist with unloading of delivery goods; prepare the restaurant for opening, and lastly to allow employees to stay on premise from 10:00 pm to 11:30 pm, Monday through Saturday in order to clean up and close down for the night. The subject property is within the Community Service (CS) zoning district. Any Uses located within 500 feet of residentially zoned property wishing to operate outside of the standard hours of 7:00 a.m. to 10:00 p.m. require Conditional use approval by the Planning Commission. No physical changes to the site are proposed.
APPLICANT: Chick-fil-A
C/o Steve Schwartz
15635 Alton Parkway, Suite 350
Irvine, CA 92618
PROPERTY OWNER: 2715 LLC by Lindquist Stuart
PO Box 42135
Portland, OR 97242-0135
DECISION CRITERIA: Development Code Sections 40.03 *Facilities Review*, 40.15.15.3.C *New Conditional Use*, and Comprehensive Plan Policy 8.4.1.a. *Noise*.
RECOMMENDATION: Staff recommends **Approval** of **CU2017-0013 – Chick-fil-A Extended Hours of Operation**, subject to the Conditions of Approval found in Attachment C.

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<p>Attachment C: <i>Conditions of Approval;</i></p>	COA1-COA10
<p>Exhibit 1: <u>Exhibits by City Staff:</u></p> <p>Exhibit 1.1 Zoning Map Exhibit 1.2 Aerial Map</p>	<p style="text-align: center;">Page Numbers: SR4 – SR5</p>
<p>Exhibit 2: <u>Exhibits by Applicant:</u></p> <p>Exhibit 2.1 Applicant Materials</p>	<p style="text-align: center;">Combined materials package</p>
<p>Exhibit 3: <u>Public Testimony / Comments:</u></p> <p>Exhibit 3.1: Letter date stamped January 19, 2018 from Lisa Chow, Grand Fir Commons HOA, 10475 SW Laurel Street, Beaverton, expressing concerns about traffic patterns resulting from the restaurant; noticing requirements for previous approval of the restaurant, and potential misinterpretation of the Development Code for the previous approval of the restaurant.</p> <p>Exhibit 3.2: Email received, date stamped January 23, 2018 from Mr. Ira Frankel, 4450 SW 107th Avenue, Beaverton, expressing his opposition to the extension of hours for the restaurant.</p> <p>Exhibit 3.3: Letter received, date stamped January 26, 2018 from Christina Gamgene, Laurel Street resident, generally expressing opposition to the proposed restaurant and to the proposed request for extended hours of operation of this conditional use application.</p>	<p style="text-align: center;">Exhibits by #</p>

BACKGROUND FACTS

Key Application Dates

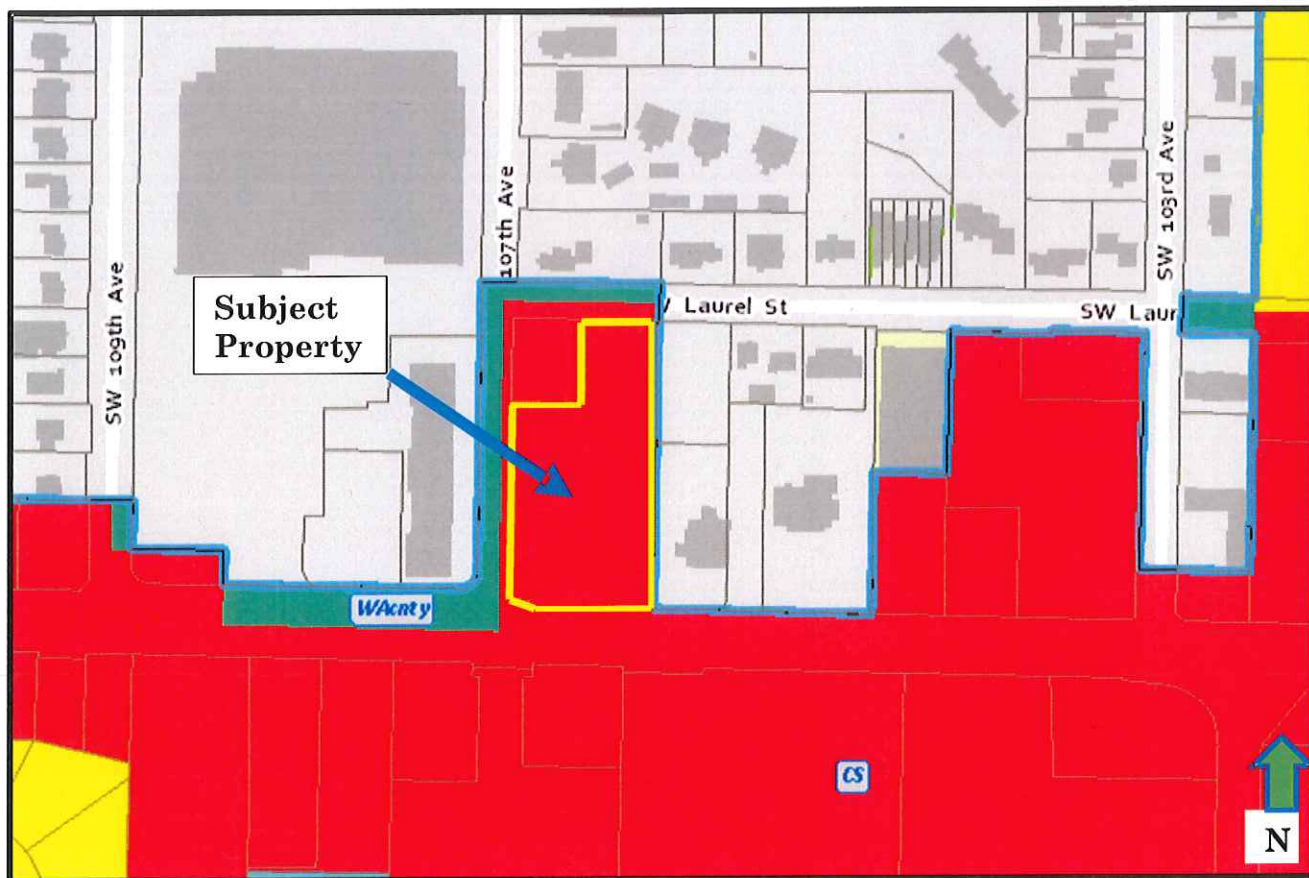
Application	Submittal Date	Deemed Complete	120-Day	365-Day*
CU2017-0013	November 30, 2017	December 20, 2017	April 19, 2018	December 20, 2018

*Pursuant to Section 50.25.9 of the Development Code this is the latest date, with a continuance, by which a final written decision on the proposal can be made.

EXISTING SITE CONDITIONS

Zoning	CS (Community Service)	
Current Development	Existing Building (Former Restaurant)	
Site Size	Approximately 1.56 Acres	
NAC	Denney Whitford / Raleigh West	
Surrounding Uses	<p><u>Zoning:</u></p> <p>North: R-15 (Washington County Residential – across SW Laurel Street) and CS</p> <p>South: CS (Community Service)</p> <p>East: Office Commercial (Washington County and Community Business District (Washington County)</p> <p>West: Community Business District (Washington County)</p>	<p><u>Uses:</u></p> <p>North: Residential and Commercial (Hair Salon)</p> <p>South: Commercial/Retail</p> <p>East: Restaurant and vacant Parking Lot</p> <p>West: Retail and Commercial (Shopping Center/ Restaurants)</p>

Zoning Map



Vicinity / Aerial Map



**FACILITIES REVIEW COMMITTEE
TECHNICAL REVIEW AND RECOMMENDATIONS
Chick-fil-A Extended Hours
(CU2017-0013)**

This is a request by the applicant, Chick-fil-A, to extend the business hours of operation in order to accommodate one (1) semi-truck delivery from 5:00 am to 7:00 am per day; allow employees on premise in order to assist with unloading of delivery goods; prepare the restaurant for opening; allow employees to stay on premise from 10:00 pm to 11:30 pm, Monday through Saturday in order to clean up and close down for the night; and lastly to allow trash collection service (Waste Management) at approximately 6:30 am five to six days per week. Any Uses located within 500 feet of residentially zoned property wishing to operate outside of the standard hours of 7:00 am to 10:00 pm require Conditional Use approval by the Planning Commission. No physical changes to the site are proposed.

Section 40.03 Facilities Review Committee:

The Facilities Review Committee has conducted a technical review of the application, in accordance with the criteria contained in Section 40.03 of the Development Code. The Committee's findings and recommended conditions of approval are provided to the decision-making authority. As they will appear in the Staff Report, the Facilities Review Conditions may be re-numbered and placed in different order.

The decision-making authority will determine whether the application as presented meets the Facilities Review approval criteria for the subject application and may choose to adopt, not adopt, or modify the Committee's findings, below.

The Facilities Review Committee Criteria for Approval will be reviewed for all criteria that are applicable to the submitted application as identified below:

The Facilities Review Committee finds that the proposal is limited in scope to extended hours of operation specific to one restaurant recently approved under a Design Review Two application, (city case file: DR2017-0068). All physical changes to the site related to the new construction have been reviewed and approved as part of that prior development proposal. No physical changes to the newly approved restaurant building or site are proposed as a result of this request, and as such, complies with all the technical criteria listed herein, A through L.

- A. *All critical facilities and services related to the proposed development have, or can be improved to have, adequate capacity to serve the proposed development at the time of its completion.***

- B. *Essential facilities and services related to the proposed development are available, or can be made available, with adequate capacity to serve the development prior to its occupancy. In lieu of providing essential facilities and services, a specific plan may be approved if it adequately demonstrates that essential facilities, services, or both will be provided to serve the proposed development within five (5) years of occupancy.***

- C. The proposed development is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are modified by means of one or more applications which shall be already approved or which shall be considered concurrently with the subject application; provided, however, if the approval of the proposed development is contingent upon one or more additional applications, and the same is not approved, then the proposed development must comply with all applicable provisions of Chapter 20 (Land Uses).**
- D. The proposed development is consistent with all applicable provisions of Chapter 60 (Special Requirements) and all improvements, dedications, or both, as required by the applicable provisions of Chapter 60 (Special Requirements), are provided or can be provided in rough proportion to the identified impact(s) of the proposed development.**
- E. Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas, as applicable: drainage facilities, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas, and other facilities not subject to maintenance by the City or other public agency.**
- F. There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the development.**
- G. The development's on-site vehicular and pedestrian circulation systems connect to the surrounding circulation systems in a safe, efficient, and direct manner.**
- H. Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate fire protection, including, but not limited to, fire flow.**
- I. Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate protection from crime and accident, as well as protection from hazardous conditions due to inadequate, substandard or ill-designed development.**
- J. Grading and contouring of the development site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.**
- K. Access and facilities for physically handicapped people are incorporated into the development site and building design, with particular attention to providing continuous, uninterrupted access routes.**
- L. The application includes all required submittal materials as specified in Section 50.25.1 of the Development Code.**

Because the proposal is limited in scope to extended hours of operation and no new and/or additional physical changes are proposed outside of the previous approval (DR2017-0068, Design Review Two), the proposal complies with the technical criteria listed herein.

**Code Conformance Analysis
Chapter 20 Use and Site Development Requirements
Community Service (CS) District**

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 20.10.20 (Community Service)			
Use- Conditional	Hours of operation between 10:00 pm and 7:00 am within 500 feet of residentially zoned property.	The applicant proposes hours of operation for a restaurant (Chick-fil-A) to be between the hours of 10:00 pm and 7:00 am.	Yes, if approved
Development Code Section 20.10.15 (Community Service)			
Minimum Lot Area	7,000	Not applicable, no new lots proposed	N/A
Minimum Lot Dimensions	70' width 100' depth	Not applicable, no new lots proposed	N/A
Yard Setbacks Minimums:	20' front 10' side 20' rear	Not applicable, no physical improvements proposed	N/A
Maximum Building Height	60'	Not applicable, no exterior changes are proposed	N/A

Chapter 60 Special Requirements

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Chapter 60			
Standards related to physical development.	Requirements for new development and redevelopment.	No exterior or site changes are proposed.	N/A

**ANALYSIS AND FINDINGS FOR
CONDITIONAL USE APPROVAL
Chick-fil-A Extended Hours of Operation
CU2017-0013**

Section 40.15.15.3.C. Approval Criteria:

In order to approve a New Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

- 1. *The proposal satisfies the threshold requirements for a Conditional Use application.***

Facts and Findings:

Development Code, Section 40.15.15.3.A, Threshold #1 states:

The proposed use is conditionally permitted in the underlying zoning district and a prior conditional use approval for the proposed use is not already in effect.

Uses in the Community Service (CS) zoning district which are located within 500 feet of a residential use in a residential zone, operating between 10:00 p.m. and 7:00 a.m. require a new conditional use permit. The proposed subject restaurant of 4,840 square feet, will be approximately 242 feet from the residential uses in the R-15 Residential zone of unincorporated Washington County on the north side of SW Laurel Street. Therefore a new Conditional Use is required.

The applicant has indicated that even though the proposed restaurant will be open from 7:00 am to 10:00 pm, business operations will continue outside of those hours. Specifically, delivery of goods and restaurant preparations will occur before 7:00 am and after 10:00 pm. From 5:00 am to 7:00 am there will be truck delivery of restaurant goods, with employee assistance for unloading. Additionally, after the restaurant closes for business at 10:00 pm, employees will stay on-site in order to clean and close down. These hours are proposed to be from 10:00 pm to 11:30 pm.

Therefore, staff finds that by meeting the conditions of approval, the criterion is met.

- 2. *All City application fees related to the application under consideration by the decision making authority have been submitted.***

Facts and Findings:

The applicant has paid the required fees for a Conditional Use application on November 30, 2017.

Therefore, staff finds that the criterion is met.

3. The proposal will comply with the applicable policies of the Comprehensive Plan.

Facts and Findings:

Staff cites the following comprehensive plan policy and associated findings as applicable to this criterion:

Goal 8.4.1 Create and protect a healthy acoustical environment within the City.

Facts and Findings:

Policy 8.4.1.a reads as follows:

Policy 8.4.1.a Noise impacts shall be considered during development review processes.

The proposal is to extend the hours of operation for a proposed restaurant (with drive-through) which will be located on the subject property, zoned Community Service (CS) and across the street (SW Laurel Street) from existing residential development. The restaurant with drive-through facilities will be open to the public from 7:00 am to 10:00 pm. However, there are operational activities proposed outside of these business hours. Because the subject property is adjacent to (across SW Laurel Street to the north) residential uses, the applicant has taken the following measures to ensure the restaurant remains in compliance with this section of the Comprehensive Plan:

- One (1) semi-truck delivery from 5:00 am to 7:00 am, daily, Monday through Saturday;
- Semi-truck backing beepers will be turned off while maneuvering on-site;
- Entry to the site will be from SW 107th Avenue, and exiting onto SW Laurel Street heading westbound only;
- Restaurant will not be open to the public before 7:00 am, or past 10:00 pm, Monday through Saturday; and closed on Sundays.
- Employees will only park on-site;
- Activities will take place inside the restaurant during the hours of 5:00-7:00, except for 1 to 2 employees assisting with unloading of delivery vehicle.
- Unloading will take place immediately adjacent to restaurant entrance, which is approximately 250-300 feet from the nearest residence north of SW Laurel Street and closer to SW Beaverton-Hillsdale Highway;
- Trash pick-up will occur after 6:30 am, and be consistent with the trash pick-up schedule in the neighborhood along SW Laurel Street; and,
- From 10:00 pm to 11:30 pm, up to six (6) employees will remain on-site in order to clean up and prepare the restaurant for next-day business activities. Most, if not all these activities will take place indoors.

Staff concludes that with the efforts of the applicant to mitigate potential noise concerns, in addition to the conditions of approval in Attachment C, the applicant is in compliance with the applicable policy of the Comprehensive Plan as stated above.

Therefore, staff finds the criterion is met.

4. *The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.*

Facts and Findings:

The conditional approval is requested for extended hours of operation for the proposed drive-through restaurant. Under the development review for the proposed restaurant (DR2017-0008), the applicant has met all the required development standards for such use. As shown on Site Plan Sheet C2.0, the site has provided the adequate space to accommodate the proposed restaurant with drive-through facilities, ample parking, landscaping and other necessary project features. The topography of the site is relatively flat and does not contain natural or man-made features that would preclude development.

Staff concludes that natural and man-made features on the site are adequate to accommodate the proposal which is limited to extended hours of operation only.

Therefore, staff finds by meeting the conditions of approval, that the criterion is met.

5. *The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.*

The request is for extended hours of operation for a previously approved restaurant with drive-through. The subject property is within the Community Services zoning district, and fronts SW Beaverton-Hillsdale Highway, a busy arterial corridor. Properties to the northwest, south and east are zoned Community Services and currently developed with commercial businesses. Immediately adjacent to the property, to the east, are properties within a Community Business District (CBD), zoned Office Commercial (Washington County), and occupied with other commercial uses, and also a vacant parking lot. These surrounding commercial uses (strip mall, stand-alone restaurants, and big box commercial retail) are compatible with the charter and use type of proposed restaurant use.

There are however, single-family residential uses to the north of the project site (unincorporated Washington County Residential R-15 zoning) immediately across SW Laurel Street. As a result, under the previous approval for the restaurant with drive-through facilities, the applicant has proposed a low landscaped screen buffer along the

northern property line. There is existing landscaping (dense shrubbery hedge approximately 5 feet in height at present) along the street frontage of SW Laurel Street to the west of the subject site, and mature evergreen and deciduous trees on the residentially zone property immediately across (north) from the proposed restaurant's driveway access. There is also an existing stand-alone retail business at the intersection of SW 107th Avenue and SW Laurel Street, on the northeast corner, with mature landscaping on both sides of the structure.

It is anticipated that the proposed landscape buffer, existing landscaping and trees adjacent to, and north of the project site, and the existing structure on the northeast corner will help soften the visual impacts of the restaurant use, while at the same time provide some noise attenuation. Additionally, in order to mitigate impacts from potential additional truck traffic on SW Laurel Street from early morning truck deliveries, staff have recommended a condition of approval requiring the applicant to post signage for exiting traffic at the northern driveway, prohibiting eastbound truck turns onto SW Laurel Street.

The potential impacts related to the request for extended hours of operation of the proposed restaurant will be minimal (one truck delivery per day and six (6) employees on-site) and will mostly take place inside the restaurant, other than the deliveries. Staff acknowledges the efforts taken by the applicant to have minimal impact on livability to nearby residences, in addition to finding that the use is compatible with the surrounding area, and is an appropriate use.

Therefore, staff finds by meeting the conditions of approval, that the criterion is met.

6. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

The applicant has submitted the required application materials for the review of a Conditional Use application. This review process is a required step to receive City approval for the development's proposal.

Therefore, staff finds that the criterion is met.

RECOMMENDATION

Based on the facts and findings presented, staff recommends **APPROVAL** of **CU2017-0013 (Chick-fil-A Extended Hours of Operation)** subject to the Conditions of Approval in Attachment C.

**CONDITIONS OF APPROVAL
Chick-fil-A Extended Hours
CU2017-0013**

CU2017-0013 Conditional Use Application:

1. The Conditional Use permit shall run with the land and shall continue to be valid upon a change of ownership of the site or structure unless otherwise specified in conditions attached to the permit. (SF/Planning)
2. Final decision shall expire automatically two (2) years from the effective date of decision unless the approval is enacted either through construction or establishment of use within the two (2) year time period. (Planning/SF)

The Applicant or property owner shall continually comply with the following conditions:

3. Hours of operation for employees of the restaurant, located at 10655 SW Beaverton-Hillsdale Highway shall be from 5:00 am to 7:00 am for set-up preparation and delivery assistance; and, from 10:00 pm to 11:30 pm for clean-up and close down of the restaurant, Monday through Saturday. (SF/Planning)
4. Hours of operation for service truck deliveries shall be from 5:00 am to 7:00 am, Monday through Saturday. (SF/Planning)
5. Truck delivery vehicles shall enter the site from SW 107th Avenue and exit via left turns heading westbound on SW Laurel Street. Truck delivery vehicles shall be prohibited from turning right (eastbound) onto SW Laurel Street upon exiting the site. (SF/Planning)
6. The applicant shall post signage prohibiting eastbound truck turns onto SW Laurel Street. Said signage shall say "TRUCKS MUST TURN LEFT" for exiting traffic at the driveway on SW Laurel Street. (Planning/SF - Transportation/KR/JK)
7. Hours of operation for trash removal from the site shall be limited to between the hours of 6:30 am and 8:00 pm six days per week. (Planning/SF)
8. Employees shall be required to park on-site at all times. (Planning/SF)