

## STAFF REPORT

**Report Date:** February 1, 2023

**Application/Project Name:** Queenz Asian Cuisine

**Application Numbers:** CU2022-0006 / CU2022-0007

**Proposal:** The applicant, Queenz LLC, requests approval of two New Conditional Use applications. The first New Conditional Use request is to allow the Meeting Facilities land use to occur in the existing restaurant to host events for up to 206 occupants. The second New Conditional Use request is to allow extended hours of operations to host events later than 10:00 p.m.

**Proposal Location:** The site is located at 8225 SW Apple Way, specifically identified as Tax Lot 01000 on Washington County Tax Assessor's Map 1S113BC.

**Applicant:** Queenz LLC



**Recommendation:** APPROVAL of Queenz Asian Cuisine CU2022-0006 / CU2022-0007, subject to conditions identified at the end of this report.

**Hearing Information:** 6:30 p.m. February 8, 2023, at City Hall, 12725 SW Millikan Way

**Note: Public Hearings are held remotely** and can be viewed at the following link:  
<https://beavertonoregon.gov/913/Agendas-Minutes>

### Contact Information:

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Beaverton, OR 97225

Property Owner: Commerce Property  
Attn.: Malcolm Mclver  
101 SW Main Street, Suite 1210

Portland, OR 97204

Applicant Representative: PBS Engineering & Environmental  
Attn.: Eileen Mitchell  
1325 SE Tech Center Drive, Suite 140  
Vancouver, WA 98683

## Existing Conditions

**Zoning:** Community Service (CS)

**Site Conditions:** The subject site is currently developed with two commercial buildings and associated site improvements including pedestrian and vehicular circulation areas. Existing commercial uses operating on the subject site include an eating and drinking establishment, a dental office, and a gym.

**Site Size:** 2.95 acres

**Location:** At the southwest corner of SW Beaverton Hillsdale Highway & SW Apple Way

**Neighborhood Association Committee:** Denney Whitford/Raleigh West NAC

**Table 1: Surrounding Uses**

Direction	Zoning	Uses
North	Community Service (CS)	Financial Institutions, Eating and Drinking Establishment
South	CS	Multi-Dwelling Residential
East	Unincorporated Washington County Community Business District (CBD) and R-25+	Retail Trade, Service Business/Professional Services, Vacant Land
West	CS	Office and Vacant Land

# Application Information

**Table 2: Application Summaries**

Application	Application Type	Proposal Summary	Approval Criteria Location
CU2022-0006	New Conditional Use	Request to allow the Meeting Facilities land use to occur in the existing restaurant to host events for up to 206 occupants	Development Code Sections 40.03.1 and 40.15.15.5
CU2022-0007	New Conditional Use	Request to allow extended hours of operations to host events later than 10:00 p.m.	Development Code Sections 40.03.1 and 40.15.15.5

**Table 3: Key Application Dates**

Application	Submittal Date	Deemed Complete	120-Day	365-Day*
CU2022-0006	June 27, 2022	Dec. 21, 2022	Apr. 20, 2023	Dec. 21, 2023
CU2022-0007	June 27, 2022	Dec. 21, 2022	Apr. 20, 2023	Dec. 21, 2023

\* 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.

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## Exhibits

Exhibit 1. Materials submitted by Staff

Exhibit 1.1 Zoning Map (page 9 of this report)

Exhibit 1.2 Vicinity Map (page 10 of this report)

Exhibit 2. Public Comment

Exhibit 2.1 Public Comment from Megan Campbell, dated Jan. 4, 2023

Exhibit 2.2 Public Comment from Doug and Lora Wells, dated Jan. 18, 2023

Exhibit 2.3 Public Comment from Doug and Lora Wells (2), dated Jan. 18, 2023

Exhibit 2.4 Public Comment from Bob and Cheryl Halvorson, dated Jan. 20, 2023

Exhibit 2.5 Public Comment from Doug and Lora Wells (3), dated Jan. 19, 2023

Exhibit 2.6 Public Comment from Jim Campbell, dated Jan. 20, 2023

Exhibit 2.7 Public Comment from Lance and Cookie Clifford, dated Jan. 21, 2023

Exhibit 2.8 Public Comment from Diana and Blake Buswell, dated Jan. 24, 2023

Exhibit 2.9 Public Comment from Doug and Lora Wells (4), dated Jan. 27, 2023

Exhibit 2.10 Public Comment from Doug and Lora Wells (5), dated Jan. 27, 2023

Exhibit 2.11 Public Comment from Doug and Lora Wells (6), dated Jan. 27, 2023

Exhibit 2.12 Public Comment from Doug and Lora Wells (7), dated Jan. 27, 2023

Exhibit 2.13 Public Comment from Doug and Lora Wells (8), dated Jan. 27, 2023

Exhibit 2.14 Public Comment from Doug and Lora Wells (9), dated Jan. 27, 2023

- Exhibit 2.15 Public Comment from Doug and Lora Wells (10), dated Jan. 27, 2023
- Exhibit 2.16 Public Comment from Doug and Lora Wells (11), dated Jan. 27, 2023
- Exhibit 2.17 Public Comment from Doug and Lora Wells (12), dated Jan. 27, 2023
- Exhibit 2.18 Public Comment from Doug and Lora Wells (13), dated Jan. 27, 2023
- Exhibit 2.19 Public Comment from Doug and Lora Wells (14), dated Jan. 27, 2023
- Exhibit 2.20 Public Comment from Doug and Lora Wells (15), dated Jan. 27, 2023

Exhibit 3. Materials submitted by the Applicant

- Exhibit 3.1 Application Forms
- Exhibit 3.2 Narrative
- Exhibit 3.3 Supplement to Narrative
- Exhibit 3.4 Noise Study
- Exhibit 3.5 Supplement to Noise Study
- Exhibit 3.6 Trip Generation Memo
- Exhibit 3.7 Site Plan
- Exhibit 3.8 Clean Water Services SPL
- Exhibit 3.9 TVF&R SPL Email
- Exhibit 3.10 Pre-Application Notes
- Exhibit 3.11 Neighborhood Meeting Materials

Exhibit 4. Agency Comments

- Exhibit 4.1 ODOT, dated Jan. 5, 2023

## Public Comment Response

Staff has identified the following as themes or issues raised in public testimony and addresses those, herein, and/or refers to the portion(s) of the staff report and record in which those issues are addressed.

### **Livability Impacts due to Noise and Vibration from Amplified Music**

The most commonly cited public concern relates to the noise and vibrations caused by amplified music and bass associated with the proposed events that have been taking place at Queenz Asian Cuisine. Multiple public comments acknowledge that the noise and vibrations can be heard and felt inside their homes which has had a negative impact on livability for nearby residences. The public has voiced concerns that these impacts will continue if the New Conditional Use applications are approved due to Queenz' history of unpermitted operation of events, violations of the City Noise Ordinance and Development Code, and an unlikelihood that doors and windows will be kept closed during events, especially in the summer. One comment also raised concerns about the accuracy of the noise study submitted by the applicant.

In response, staff cites the findings in the following sections of this report:

- Attachment A: Findings in response to Facilities Review criterion 40.03.1.D evaluating compliance with applicable provisions of Development Code Chapter 60, including 60.50.25.11 for noise regulations
- Attachment B: Findings in response to New Conditional Use (Meeting Facilities) criterion 40.15.15.5.C.5 evaluating compatibility and impacts on livability of properties in the surrounding area
- Attachment C: Findings in response to New Conditional Use (Extended Hours of Operation) criterion 40.15.15.5.C.5 evaluating compatibility and impacts on livability of properties in the surrounding area

Staff analysis of applicable approval criteria concludes that Queenz has demonstrated that the proposed activities can adequately mitigate impacts on livability related to noise and vibration by complying with the recommended conditions of approval. Recommended conditions of approval place restrictions on hours of operation including when music must be turned off, opening of windows and doors, and amplified music volumes (for high and low frequencies). Further, pursuant to Development Code Section 10.65.9, failure to fulfill or comply with any conditions of approval is considered a violation of this Code and is subject to code enforcement which may result in revocation of the subject approval by the City Council.

### **Traffic and Safety Impacts**

Public comment raises concerns about traffic and safety for children and families in the surrounding neighborhood due to patrons of Queenz Asian Cuisine. Staff has not identified any traffic or safety concerns related to this proposal. Staff cites the analyses in Attachment A in

response to Facilities Review approval criterion 40.03.1.A related to traffic and 40.03.1.I related to prevention of crime and accident.

### **Opposition to Modifications to Current Zoning**

Multiple public comments voiced opposition to any modification or expansion of permitted uses on the subject site beyond the current permitted uses of the underlying zoning district. Any property within the City of Beaverton may request Conditional Use approval from the Planning Commission to allow establishment, expansion, or modification of those land uses identified as conditional in the zoning district in which the site is located, pursuant to the requirements and approval criteria of Development Code Section 40.15. The applicant is going through the required process to request New Conditional Use approvals from the Planning Commission. Staff cites the findings of Attachments A, B, and C which detail how the applicant has demonstrated compliance with all applicable approval criteria of the Development Code.

### **Ongoing Unpermitted Operation of Events and Activity after 10:00 p.m.**

Multiple public comments acknowledge that the applicant has been holding events that continue past 10:00 p.m. in violation of the zoning. Staff is aware that Queenz has been operating events and activities between the hours of 10:00 p.m. and 7:00 a.m. in violation of the Development Code, and the applicant is aware that these activities may not occur. The applicant has submitted New Conditional Use applications to seek approval from the Planning Commission for their ongoing activities, and code enforcement staff communicated to the applicant that operations of events or activity after 10:00 p.m. may not occur during the land use process.

Several public comments identify concerns that Queenz' history of non-compliance with the underlying zoning means that the business will not comply with noise restrictions or other conditions of approval if their applications are approved. If Queenz' New Conditional Use applications are approved, the applicant must comply with applicable Development Code requirements in addition to any conditions of approval placed on their applications by the Planning Commission. Any activity that is not in compliance with the Development Code or the conditions of approval is considered a violation of the Code and is subject to the Code Compliance process which may include fines, court action, or other punitive actions. Any violation of the Code should be reported by the public to the Code Compliance Program.

Multiple comments add that Queenz should not be granted approval on grounds that they have been operating in violation of the Development Code. Staff notes that a history of non-compliance with the Development Code is not an approval criterion of the New Conditional Use applications per Development Code Section 40.15.15.5.C and may not be considered in this analysis.

### **Enforcement Challenges**

Public comment identifies challenges related to reporting code violations and enforcement of City Code and Development Code restrictions since the subject property is located at the edge of the city boundary adjacent to unincorporated Washington County. As Queenz Asian Cuisine is

located within city limits, the public must report all violations to the City of Beaverton Code Compliance Program.

### **Impacts to Property Values**

One public comment mentioned concerns that noise and vibration impacts from Queenz' amplified music would negatively impact property values of nearby residences. Potential impacts to property values were not evaluated by this report. However, potential noise and vibration impacts to residential properties were assessed. Staff cites this analysis in Attachments B and C in response to New Conditional Use approval criterion 40.15.15.5.C.5. Staff finds that by complying with the conditions of approval, noise and vibration impacts will be adequately mitigated which will prevent negative impacts to residential property values.



Exhibit 1.1 Zoning Map

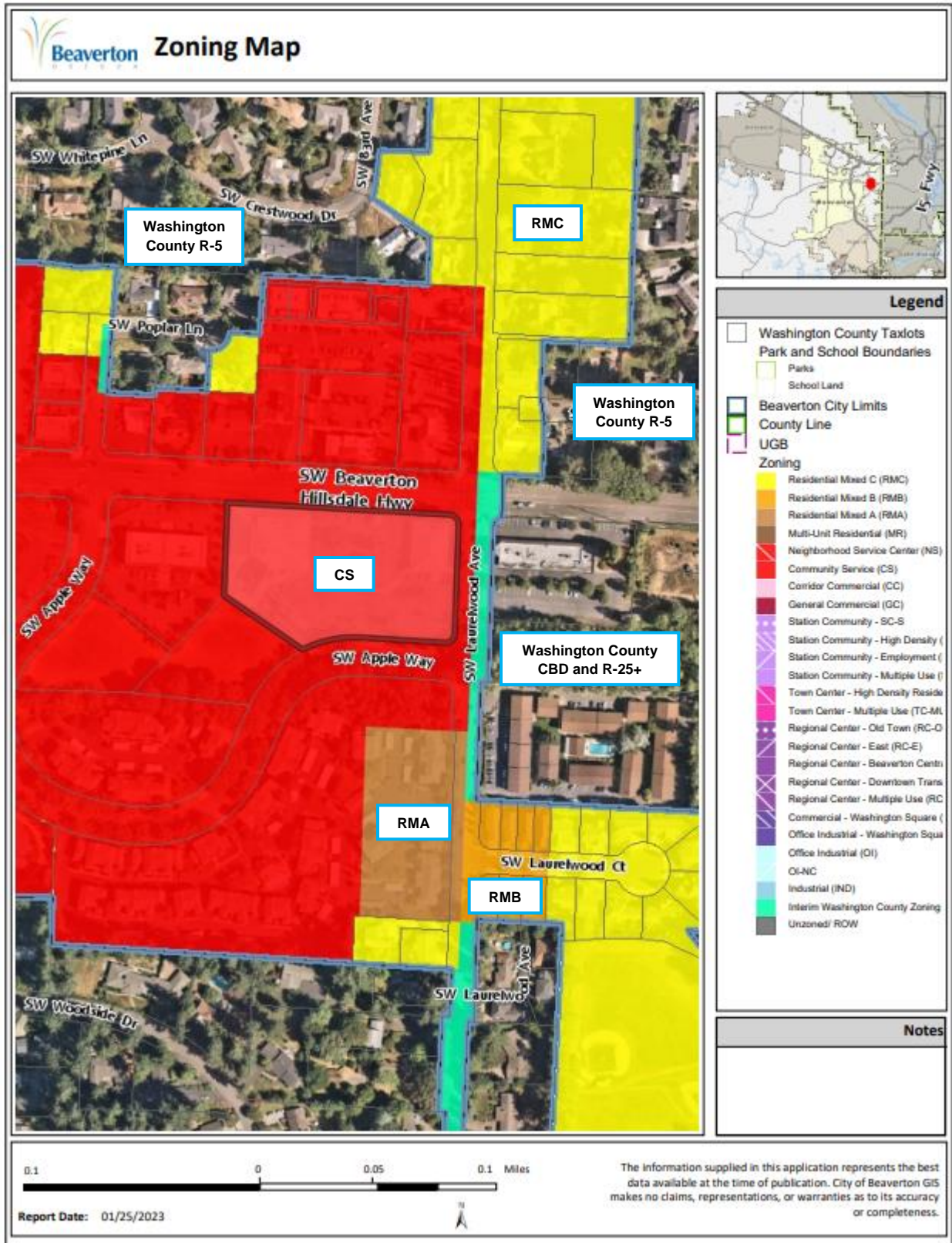
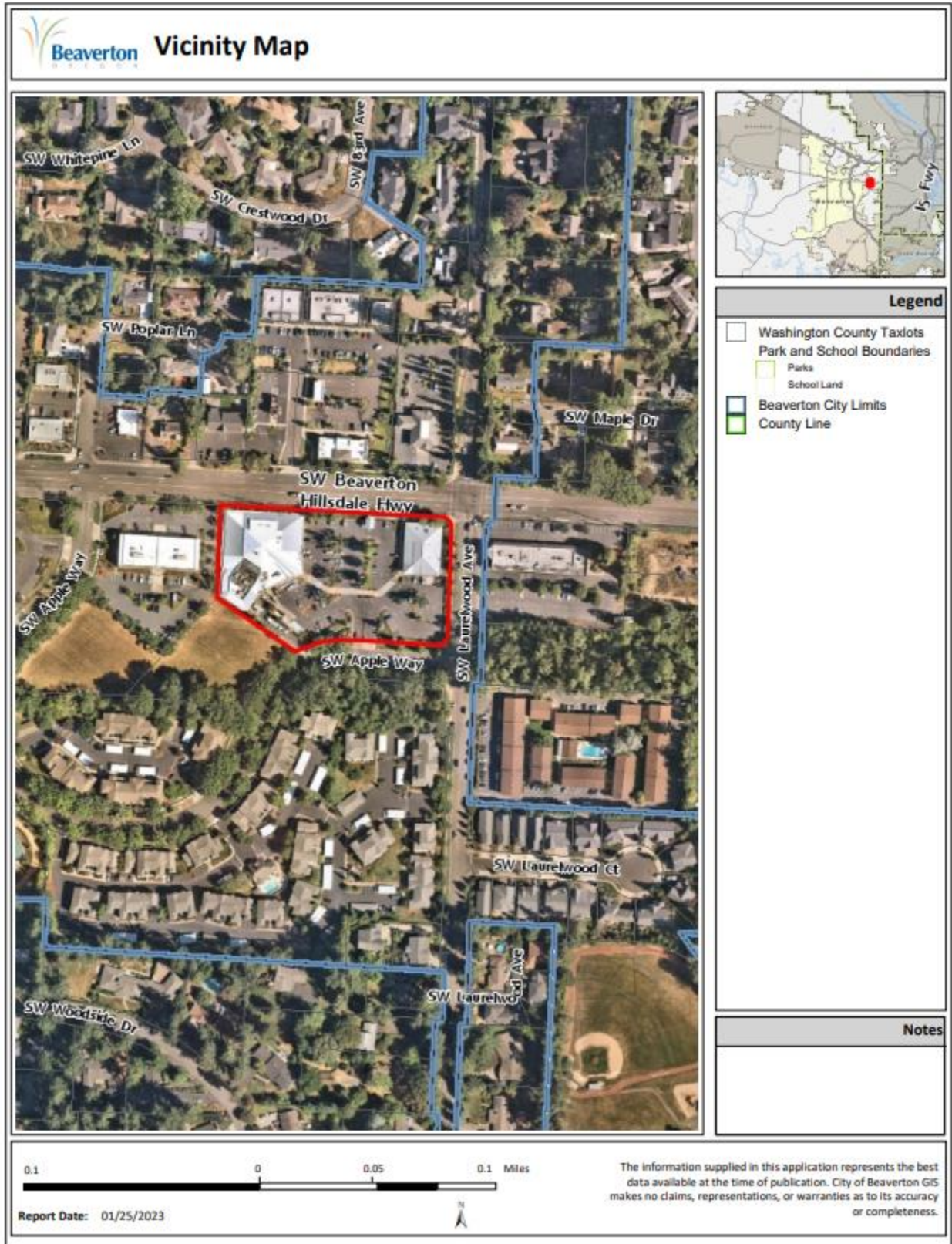


Exhibit 1.2 Vicinity Map



# Attachment A: FACILITIES REVIEW COMMITTEE

## TECHNICAL REVIEW AND RECOMMENDATIONS

**Application:** Queenz Asian Cuisine

**Proposal:** The applicant, Queenz LLC, requests approval of two New Conditional Use applications. The first New Conditional Use request is to allow the Meeting Facilities land use to occur in the existing restaurant to host events for up to 206 occupants. The second New Conditional Use request is to allow extended hours of operation to host events later than 10:00 p.m.

**Recommendation:** APPROVE CU2022-0006 / CU2022-0007

**Outstanding Technical Issues:** None

### 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 a 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.

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

- All twelve (12) criteria are applicable to the two New Conditional Use applications (CU2022-0006 / CU2022-0007) as submitted.

### Section 40.03.1.A

**Approval Criterion:** *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.*

#### FINDING:

Chapter 90 of the Development Code defines "critical facilities" to be services that include potable and non-potable public water; public sanitary sewer; stormwater drainage, treatment, and retention; transportation; and fire protection.

**Potable Water:** The subject site is located in the West Slope Water District service area. The West Slope Water District currently provides potable water service to the existing

building and the current use as a restaurant. The proposed change to hours of operation and proposal of the use Meeting Facilities are not anticipated to change the potable water needs for the site as no new fixtures are proposed. Staff finds that the site will continue to have adequate potable water service.

**Non-Potable Water:** There is no non-potable water network in the area of development. Therefore, the proposal is exempt from connecting to a non-potable water network.

**Sanitary Sewer:** City of Beaverton sanitary sewer service currently serves the site, the proposed change to hours of operation and proposal of the use Meeting Facilities are not anticipated to change the sanitary sewer needs for the site as no new fixtures are proposed. Staff finds that the site will continue to have adequate sanitary sewer service.

**Stormwater Drainage, Treatment, and Retention:** The subject property is currently served by City of Beaverton stormwater infrastructure. This project does not propose any new or modified impervious area, so the Committee finds that the existing stormwater infrastructure is adequate to serve the proposed change in use to allow events.

**Transportation:** The applicant proposes to allow the Meeting Facilities land use to host events from the existing restaurant commercial space on site with a maximum occupancy of 206 people. The restaurant is proposed to be closed when events are held. The applicant provided a trip generation memo to evaluate the estimated net new average daily trips for events compared to the existing restaurant use. The trip generation memo identifies that the existing restaurant during peak hours on Sundays generates 727 average daily trips, while the proposed events would generate an additional 138 new trips. However, the trip generation memo assumes that events will occur at 75% occupancy. Transportation staff's analysis determined that events held at 100% occupancy (206 people) would generate 183 new trips compared to the existing restaurant. Therefore, transportation staff concluded that when events operate at full occupancy, this proposal does not meet the 300 net new average daily trips threshold to require a Traffic Impact Analysis. The Committee recommends a condition of approval requiring closure of the restaurant while events are occurring.

**Fire Protection:** Fire protection to the site will continue to be provided by Tualatin Valley Fire and Rescue (TVF&R). TVF&R staff reviewed the proposed development and determined that a Service Provider Permit is not required based on the scope of work. Therefore, the Committee finds that existing fire protection service is adequate to serve the proposal.

The proposal for extended hours of operation has no impact on critical facilities. For these reasons, the Committee finds that critical facilities and services related to the proposed development are available with adequate capacity to serve the development.

**Conclusion:** Therefore, the Committee finds that, by meeting the conditions of approval, the proposal meets the approval criterion.

## Section 40.03.1.B

**Approval Criterion:** *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.*

### FINDING:

Chapter 90 of the Development Code defines “essential facilities” to be services that include schools, transit improvements, police protection, and on-site pedestrian and bicycle facilities in the public right-of-way.

**Schools:** The proposed development is within the boundaries of the Beaverton School District. No new dwelling units are proposed as part of the development. Therefore, the Committee finds that the proposal will not affect the existing school capacity.

**Transit Improvements:** The existing site is served by Trimet bus stops at the adjacent intersection of SW Beaverton-Hillsdale Highway and SW Laurelwood Avenue. Trimet bus line number 54 provides transit service to downtown Portland. Trimet bus line number 55 provides service to Raleigh Hills. Due to the existing Trimet bus service for the site, the Committee finds there is adequate transit service to serve the proposed development.

**Police Protection:** The City of Beaverton Police Department provides police services to the existing commercial property. As of the date of this report, Beaverton Police have not provided comments or recommendations to the Committee. Any comments from Beaverton Police will be forwarded directly to the applicant, and the Committee finds that adequate police protection service will continue to be provided to the subject site.

**Pedestrian and Bicycle Facilities:** The proposed scope of work does not include improvements to pedestrian or bicycle facilities in the public right of way. Public sidewalks about the site along SW Beaverton-Hillsdale Highway and SW Laurelwood Avenue. There are no bike lanes or other bicycle facilities in the public right of way near this site. Due to the limited scope of the proposal, frontage improvements for new or modified public pedestrian or bicycle infrastructure is required. Therefore, the Committee finds that existing pedestrian and bicycle facilities are adequate to support the proposal.

The proposal for extended hours of operation has no impact on essential facilities. For these reasons, the Committee finds that essential facilities and services related to the proposal are available with adequate capacity to serve the development.

**Conclusion:** Therefore, the Committee finds that the proposal meets the approval criterion.

## Section 40.03.1.C

**Approval Criterion:** *The proposed development is consistent with all applicable provisions of Chapter 20 (Land Uses), or Sections 20.25 and 70.15 if located within the Downtown Design District, 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) or Sections 20.25 and 70.15 if located within the Downtown Design District.*

### FINDING:

The subject site is located in the Community Service (CS) zoning district. The Committee refers to the Chapter 20 Use and Site Development Requirements table at the end of this report, which evaluates the project as it relates to the applicable code requirements of Section 20.10.15 Residential Site Development Standards and 20.10.20 Residential Land Uses. As demonstrated in the table, this proposal complies with all applicable standards in Chapter 20 Commercial Land Use Districts.

**Conclusion:** Therefore, the Committee finds that the proposal meets the approval criterion.

## Section 40.03.1.D

**Approval Criterion:** *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.*

### FINDING:

The Committee cites the Code Conformance Analysis chart at the end of this report, which evaluates the proposal as it relates to the applicable Code requirements of Chapter 60 (Special Requirements). Staff will provide findings for the New Conditional Use requests within the applicable sections of the staff report.

**Section 60.30 Off-Street Parking:** The applicant does not propose changes to the existing vehicle parking facilities on the subject site. The existing parking lot provides 150 total parking spaces which are currently shared by the commercial uses on site including the gym, dental clinic, and restaurant. Of the 150 provided parking spaces, there are five accessible spaces. As mentioned in response to Criterion A, the applicant proposes to close the restaurant during events, and a condition of approval is recommended to ensure there is no overlap between the uses. Therefore, the proposed events would share existing parking spaces with the gym and dental clinic as their hours of operation would partially overlap with events.

The existing site was approved according to the Shopping Center parking ratio which requires a minimum of 3.3 parking spaces per 1,000 square feet of gross floor area. Events are subject to the Meeting Facilities minimum parking ratio of 0.25 spaces per occupant. Based on the gross floor area of the existing gym and dental office and the maximum occupancy for events, 142 total parking spaces are required to serve the proposed and existing uses. Since the existing parking lot provides 150 spaces, the existing conditions meet the vehicular parking requirements of Section 60.30.

Regarding bicycle parking, the existing site does not provide bicycle parking spaces for current uses. The proposed events are required to provide a minimum of one short-term and two long-term bicycle parking spaces while the existing restaurant is required to provide two short-term and two-long term spaces. Since the requirement for the existing use is more restrictive than the proposed use, the site must provide bicycle parking based on the more restrictive standard. The applicant's narrative states that they plan to install bicycle parking facilities in compliance with BDC 60.30 and applicable requirements of the Engineering Design Manual (EDM). Additionally, the applicant submitted plans demonstrating where short- and long-term bicycle parking spaces will be provided on site and how the proposed spaces comply with applicable Development Code and EDM requirements. Two short-term bicycle parking spaces are proposed to be installed on one rack approximately 20 feet south of the Queenz primary entrance under the existing roof overhang. The proposed rack location and dimensions meet applicable requirements. Two long-term bicycle parking spaces are proposed to be provided inside the building in an eight-foot by eight-foot storage room which will accommodate two two-foot-wide by six-foot-long bicycles. Therefore, the submitted plan demonstrates that long-term bike parking also meets applicable requirements. Staff recommends a condition of approval that the bicycle parking facilities are provided on site prior to issuance of final occupancy which will ensure that installation of the facilities occurs prior to operation of events.

**Section 60.50 Special Use Regulations:** BDC 60.50.25.11 for noise levels applies to this request since events are proposed to use amplified sound. Noise levels must meet the standards established by the State of Oregon Department of Environmental Quality (DEQ). The applicant provided a noise study prepared by a licensed acoustical engineer which analyzed the noise levels measured at surrounding residential property lines (multifamily and single-detached residential properties) during an event with amplified music held on November 9, 2022. The noise study cites the DEQ Noise Control Regulations of OAR 340-35-035 Table 8 as applicable to this site. Those standards are:

- For noise sources that operate for at least half an hour in any one hour of a day, the noise level limit is 50 dBA for nighttime (10:00 p.m. to 7:00 a.m.) and 55 dBA for daytime (7:00 a.m. to 10:00 p.m.) operation. ( $L_{50}$  standard)
- For noise sources that operate at least 6 minutes out of any hour (but less than 30 minutes of any hour), the allowable daytime and nighttime limits are 60 dBA and 55 dBA, respectively.

- For noise sources that operate at least 6 seconds out of any hour (but less than 6 minutes of any hour), the allowable daytime and nighttime limits are 75 dBA and 60 dBA, respectively.

According to the study, noise levels were measured at one-second intervals from four residential property lines with the measuring device oriented towards the source of the noise (see page 2 of the noise study for measurement locations). During the study timeframe, sound levels inside the event space were programmed to 97 dBA (high frequency sound) and 105 dBC (low frequency sound). The study notes that noise levels in the measured areas at residential property lines were consistently in excess of the DEQ L<sub>50</sub> standard (noise occurring 30 minutes of an hour or more) due to traffic noise, primarily from SW Beaverton Hillsdale Highway. The study used a noise measurement during a lull in traffic to assess the noise levels originating solely from the amplified music of the Queenz event which occurred at 10:28 p.m. Based on this measurement, the study confirms that when doors are closed, the noise levels at the four residential property lines did not exceed the 50 dBA noise level required by the nighttime DEQ L<sub>50</sub> standard. When doors were open, the loudest measured level was 55 dBA which is in compliance with nighttime DEQ standards if the noise occurs at least 6 minutes in an hour but less than 30 minutes in an hour. The study recommends minimizing the time doors are open to ensure compliance with this standard and identifies that the secondary, west-facing building entrance is not used. Accordingly, staff recommends a condition of approval in accordance with the recommendations of the sound study that doors and windows remain closed except for normal entering and exiting of the building and that the secondary entrance remains closed when amplified sound equipment is in use.

Based on the findings of the noise study, the Committee finds that the amplified music during events is compliant with the DEQ standards referenced by BDC 60.50.25.11 when measured sound levels inside the event space are set to 97 dBA and 105 dBC. However, staff cites the findings of Attachments B and C in response to New Conditional Use approval criterion 40.15.15.5.C.5 which identify the need for more stringent noise restrictions to adequately mitigate noise and vibration impacts to nearby residential properties. As discussed in Attachments B and C, staff recommends a condition of approval establishing maximum dBA and dBC limits for amplified music that are more restrictive than the applicable DEQ standards. If the proposal is approved, noncompliance with the conditions of approval will be considered a violation of the Development Code and is subject to the code enforcement standards of BDC 10.70, and approval may be revoked by the City Council pursuant to BDC 10.65.9.

**Section 60.55 Transportation Facilities:** Staff cites the response to Facilities Review Criterion A identifying that the proposed events are anticipated to generate 183 net new average daily trips during peak times which is below the threshold to require a Traffic Impact Analysis. The request does not propose modifications to existing transportation facilities on site, and the Committee finds that existing conditions will be adequate to support the proposed land use.



**Conclusion:** Therefore, the Committee finds that, by meeting the conditions of approval, the proposal meets the approval criterion.

### **Section 40.03.1.E**

**Approval Criterion:** *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.*

#### **FINDING:**

The subject site and building are existing and currently undergo periodic maintenance and necessary normal replacement of private common facilities when necessary. Since the proposed Conditional Use applications to allow Meeting Facilities and extended hours of operation are proposed in existing facilities, the Committee finds that existing means for maintenance are sufficient to serve the proposed development.

**Conclusion:** Therefore, the Committee finds that the proposal meets the approval criterion.

### **Section 40.03.1.F**

**Approval Criterion:** *There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the development.*

#### **FINDING:**

The subject site has existing vehicular and pedestrian infrastructure to serve the uses on site. The Conditional Use request to allow the Meeting Facilities use in the existing restaurant does not propose any changes to these facilities, and the Committee finds that the existing vehicular and pedestrian circulation areas in the parking lot and paths between buildings adequately serves the proposed use and is safe and efficient for users of the site.

**Conclusion:** Therefore, the Committee finds that the proposal meets the approval criterion.

### **Section 40.03.1.G**

**Approval Criterion:** *The development's on-site vehicular and pedestrian circulation systems connect to the surrounding circulation systems in a safe, efficient, and direct manner.*

## FINDING:

On-site vehicular and pedestrian circulation areas are existing, and no changes are proposed with this development. The site currently provides vehicular access to the parking lot from SW Apple Way and pedestrian connections to the public sidewalks along SW Beaverton-Hillsdale Highway, SW Laurelwood Avenue, and SW Apple Way. The existing on-site infrastructure connects to the surrounding circulation system in a safe, efficient, and direct manner. Therefore, the Committee finds that the existing on-site facilities will adequately serve the proposed use to ensure safe and efficient connections.

**Conclusion:** Therefore, the Committee finds that the proposal meets the approval criterion.

## Section 40.03.1.H

**Approval Criterion:** *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.*

## FINDING:

Fire protection will continue to be provided by TVF&R, and TVF&R confirmed that a Service Provider Permit is not required for the proposal. The Building Division has reviewed the request and confirmed that the installed acoustic panels for sound dampening require a Building Permit. Because of this, the Committee recommends conditions of approval that the applicant obtain the required Building Permit. Additionally, the Building Division indicated that the existing building and restaurant use have outstanding Building Permits related to structural and mechanical work which must also be resolved prior to issuance of final occupancy of the Building Permit for acoustic panels. Accordingly, the Committee recommends a condition of approval that the applicant obtain issuance of final occupancy of all outstanding building permits. This will ensure that all work required for the existing restaurant and the acoustic panels for events is completed, inspected, and accepted in accordance with applicable building codes prior to hosting events on the site.

**Conclusion:** Therefore, the Committee finds that, by meeting the conditions of approval, the proposal meets the approval criterion.

## Section 40.03.1.I

**Approval Criterion:** *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.*

## FINDING:

The applicant states that no changes are proposed to the existing site which would affect the site's protection from hazardous conditions due to inadequate, substandard, or ill-designed development. Beaverton Police will continue to provide law enforcement services to the property. As of the date of this report, Beaverton Police have not raised any concerns about crime or accident at the site. Any comments from Beaverton Police will be forwarded directly to the applicant, and the Committee finds the development is designed to provide adequate protection from crime and accident.

Additionally, the applicant will be required to submit for life and safety review as part of the Building Permit review process associated with the installation of acoustic panels and issuance of final occupancy of other outstanding permits (B2019-3154, B2020-0059, B2019-4017, and B2022-2815) as detailed in the recommended conditions of approval. Accordingly, the Committee finds that review of the construction documents at the Building Permit stage and the final inspection process will ensure protection from hazardous conditions due to inadequate, substandard, or ill-designed development.

**Conclusion:** Therefore, the Committee finds that by meeting the conditions of approval, the proposal meets the approval criterion.

## Section 40.03.1.J

**Approval Criterion:** *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.*

## FINDING:

The proposed development does not include any grading activity or contouring of the existing site.

**Conclusion:** Therefore, the Committee finds that this approval criterion does not apply.

## Section 40.03.1.K

**Approval Criterion:** *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.*

## FINDING:

The applicant states that the site is accessible for physically handicapped people with required ADA parking and accessibility requirements in place. The proposed development does not include any exterior modifications to the site. Any internal changes associated

with the installation of acoustic panels that affect accessibility, if any, will be evaluated at the time of Building Permit. The Committee finds that review of the proposed plans at the Building Permit stage is sufficient to guarantee compliance with accessibility standards.

**Conclusion:** Therefore, the Committee finds that, by meeting the conditions of approval, the proposal meets the approval criterion.

## **Section 40.03.1.L**

**Approval Criterion:** *The application includes all required submittal materials as specified in Section 50.25.1 of the Development Code.*

### **FINDING:**

The applicant submitted two applications for a New Conditional Use on June 27, 2022, and both applications were deemed complete on December 21, 2022.

**Conclusion:** Therefore, the Committee finds that the proposal meets the approval criterion.

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

<b>CODE STANDARD</b>	<b>CODE REQUIREMENT</b>	<b>PROJECT PROPOSAL</b>	<b>MEETS CODE?</b>
<b>Development Code Section 20.10.20</b>			
Meeting Facilities	Conditional Use	The applicant proposes the Meeting Facilities land use to occur in the existing restaurant to host events for up to 206 occupants.	<b>See CU Findings</b>
Uses Operating between 10:00 p.m. and 7:00 a.m.	Conditional Use	The applicant proposes extended hours of operation to host events later than 10:00 p.m. within 500 feet of an existing residential use in a residential zone.	<b>See CU Findings</b>
<b>Development Code Section 20.10.15</b>			
Minimum Parcel Area	7,000 square feet	Not applicable. No new lots are proposed.	<b>N/A</b>
Minimum Lot Dimensions	Width: 70 feet Depth: 100 feet	Not applicable. No new lots are proposed.	<b>N/A</b>
Yard Setbacks	Front: None Side: 0 or 10 feet Rear: 20 feet	Not applicable. No exterior improvements are proposed to the existing building.	<b>N/A</b>
Maximum Building Height	60 feet	Not applicable. No exterior improvements are proposed to the existing building.	<b>N/A</b>

## Chapter 60 Special Requirements

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
<b>Development Code Section 60.05</b>			
Design Review Principles, Standards, and Guidelines	Requirements for new development and redevelopment.	The applicant proposes the Meeting Facilities land use and extended hours of operation in an existing building. No exterior improvements are proposed, so these standards do not apply.	<b>N/A</b>
<b>Development Code Section 60.07</b>			
Drive-Up Window Facilities	Requirements for drive-up, drive-through, and drive-in facilities.	No drive-up window facilities are proposed.	<b>N/A</b>
<b>Development Code Section 60.10</b>			
Floodplain Regulations	Requirements for properties located in floodplain, floodway, or floodway fringe.	The site is not located within a floodplain.	<b>N/A</b>
<b>Development Code Section 60.11</b>			
Food Cart Pod Regulations	Requirements for food carts and food cart pods.	The applicant is not proposing a food cart or food cart pod.	<b>N/A</b>
<b>Development Code Section 60.12</b>			
Habitat Friendly and Low Impact Development Practices	Optional program offering various credits available for use of specific Habitat Friendly or Low Impact Development techniques.	No Habitat Friendly or Low Impact Development credits are requested.	<b>N/A</b>
<b>Development Code Section 60.15</b>			
Land Division Standards	On-site contouring within 25 feet of a property line within or abutting any residentially zoned property, and within 25 feet of a Significant Tree or Grove.	Grading is not proposed.	<b>N/A</b>
<b>Development Code Section 60.20</b>			
Mobile and Manufactured Home Regulations	Requirements for the placement of mobile and manufactured homes.	No mobile or manufactured homes are proposed.	<b>N/A</b>
<b>Development Code Section 60.25</b>			
Off-Street Loading Requirements	Minimum: None	No loading space is proposed.	<b>N/A</b>

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
<b>Development Code Section 60.30</b>			
Off-Street Motor Vehicle Parking	<p>Auditoria, Meeting Facilities (proposed events): 0.25 spaces per occupant</p> <p>Shopping Centers (existing gym, dental clinic, restaurant): 3.3 spaces per 1,000sf of gross floor area</p>	<p>No changes to the existing parking lot are proposed. 150 off-street parking spaces are provided and shared by all on-site uses. The Committee recommends a condition of approval that the restaurant will not operate during events.</p> <p>Meeting Facilities: 52 spaces required</p> <p>Shopping Centers (gym and dental office only): 90 spaces required</p> <p>142 off-street spaces are required. 150 spaces are provided.</p>	<b>YES w/ COA</b>
<b>Development Code Section 60.30</b>			
Required Bicycle Parking	<p>Eating, Drinking Establishment (existing use): 2 short-term and 2 long-term spaces required</p> <p>Auditoria, Meeting Facilities (proposed): 1 short-term and 2 long-term spaces required</p>	<p>The existing restaurant does not provide the required number of short- or long-term bicycle parking spaces. Since the required number of spaces is greater for eating, drinking establishments than for meeting facilities, the applicant must meet the standard applicable to the restaurant use.</p> <p>The applicant submitted plans demonstrating that two short-term and two long-term bicycle parking spaces are to be provided on site prior to the operation of events. The proposed facilities demonstrate compliance with the requirements of BDC 60.30 and EDM Section 340. Therefore, the Committee recommends a condition of approval that the applicant shall complete the installation of required bicycle parking facilities as shown on the submitted plans prior to issuance of final occupancy of the building permit for acoustic panels.</p>	<b>YES w/ COA</b>
<b>Development Code Section 60.33</b>			
Park and Recreation Facilities and Service Provision	Requirements for annexing property to THPRD.	The site is already within THPRD's boundaries.	<b>N/A</b>
<b>Development Code Section 60.35</b>			
Planned Unit Development	Development and design for Planned Unit Developments.	No Planned Unit Development is proposed.	<b>N/A</b>

<b>CODE STANDARD</b>	<b>CODE REQUIREMENT</b>	<b>PROJECT PROPOSAL</b>	<b>MEETS CODE?</b>
<b>Development Code Section 60.40</b>			
Sign Regulations	Requirements for signs.	Any signs will be reviewed under a separate sign permit and are not reviewed with this proposal.	<b>N/A</b>
<b>Development Code Section 60.50</b>			
Fences	Height restrictions for fences and walls.	No fences are proposed.	<b>N/A</b>
Noise	Noise must comply with State Department of Environmental Quality regulations	Refer to the Facilities Review Committee findings herein.	<b>YES w/ COA</b>
<b>Development Code Section 60.55</b>			
Transportation Facilities	Requirements pertaining to the construction or reconstruction of transportation facilities	Refer to the Facilities Review Committee findings herein.	<b>YES</b>
<b>Development Code Section 60.60</b>			
Trees and Vegetation	Regulations pertaining to tree removal and preservation.	No trees are affected by the proposal.	<b>N/A</b>
<b>Development Code Section 60.65</b>			
Utility Undergrounding	Requirements for placing overhead utilities underground.	No utilities are affected by the proposal	<b>N/A</b>
<b>Development Code Section 60.67</b>			
Significant Natural Resources	Regulations pertaining to wetlands and riparian corridors.	There are no significant natural resources on the subject property.	<b>N/A</b>
<b>Development Code Section 60.70</b>			
Wireless Communication Facilities	Regulations pertaining to wireless facilities.	No wireless communication facilities are proposed.	<b>N/A</b>



# Attachment B: NEW CONDITIONAL USE CU2022-0006 (MEETING FACILITIES)

## ANALYSIS AND FINDINGS FOR NEW CONDITIONAL USE APPROVAL

**Recommendation:** Based on the facts and findings presented below, staff recommends **APPROVAL** of **CU2022-0006**. Should the Planning Commission determine that the application should be approved, staff recommends that the Planning Commission adopt the conditions identified in Attachment D.

### Section 40.03.1 Facilities Review Approval Criteria:

The applicant for development must establish that the application complies with all relevant standards in conformance with Section 50.25.1.B, and all the following criteria have been met:

#### Facilities Review Approval Criteria Section 40.03.1.A-L

##### FINDING:

Staff has reviewed the applicable Facilities Review criteria in Attachment A to this report. Staff cites the findings presented in Attachment A in response to the Facilities Review approval criteria. As identified in Attachment A, above, by meeting the conditions of approval, the proposal meets Criteria A-L, and therefore meets the criterion for approval.

**Conclusion:** Therefore, the Committee finds that by meeting the conditions of approval, the proposal meets the criteria.

### Section 40.15.05 Purpose:

The purpose of a Conditional Use application is to review uses that may be compatible in the underlying zoning district but because of their size, operation, or other characteristics require review on a case-by-case basis. These uses are subject to the regulations in this Section because they may, but do not necessarily, result in significant adverse effects upon the environment, overburden public services, alter the character of the surrounding area or create nuisances. Conditional Uses may be approved, approved with site-specific conditions designed to minimize or mitigate identified adverse impacts, or denied. This Section is carried out by the approval criteria listed herein.

### Planning Commission Standards for Approval:

Section 40.15.15.5.C of the Development Code provides standards to govern the decisions of the Planning Commission as they evaluate and render decisions on New Conditional Use Applications. The Planning Commission will determine whether the application as presented,

meets the New Conditional Use approval criteria. In this portion of the report, staff evaluates the application in accordance with the criteria for New Conditional Use.

To approve a New Conditional Use application, the Planning Commission shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

### **Section 40.15.15.5.C.1**

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

#### **FINDING:**

The applicant's proposal is to allow the Meeting Facilities land use to occur in the existing restaurant space to host a variety of events for up to 206 occupants. Meeting Facilities is a Conditional Use in the underlying Community Service zoning district, and no prior Conditional Use approval for the proposed use is in effect for the subject site. Accordingly, staff finds the proposal is subject to a New Conditional Use review by meeting Threshold 1 which reads:

- 1. 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.*

**Conclusion:** Therefore, staff finds the proposal meets the approval criterion.

### **Section 40.15.15.5.C.2**

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

#### **FINDING:**

The applicant paid the required fee for this New Conditional Use application.

**Conclusion:** Therefore, staff finds the proposal meets the approval criterion.

### **Section 40.15.15.5.C.3**

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

#### **FINDING:**

The following Comprehensive Plan policy applies to this project:

***Environmental Quality and Safety Element Policy 8.4.1.a. Noise impacts shall be considered during development review processes.***

**Action 1: Adopt and implement appropriate design standards for development permits for all commercial, industrial, high density, mixed use and transportation projects, and others as appropriate. Development applications should be required to demonstrate compliance with applicable noise level standards. Means of meeting the design standards might include, but are not limited to:**

- **Use of year-round landscape elements that absorb parking lot and street noise.**
- **Use of underground parking.**
- **Use of extra-thick windows.**
- **Facades constructed of materials that help to absorb sounds.**
- **Pervious surface landscape and parking lot materials that absorb sounds.**
- **Use of building materials that aid in the reduction of sound traveling through common floors and walls.**
- **Dampers on heating and cooling equipment.**

The proposal is to host events, identified by the Development Code as the Meeting Facilities land use, inside the current restaurant space with amplified music. The applicant states that to reduce noise, Queenz installed 14 two-foot by four-foot acoustic panels along all walls to damp out sound [from amplified music during events]. The applicant adds that Queenz will also limit the sound levels inside the restaurant to not exceed 97 dBA and 105 dBC based on DEQ Noise Control Regulations and the Beaverton Development Code.

Staff cites the response in Attachment A to Facilities Review criterion 40.03.1.D which addresses the applications' compliance with applicable noise standards of BDC 60.50.25.11. The submitted noise study demonstrates that the installed sound dampening acoustic panels provide adequate mitigation to meet the applicable DEQ noise regulations when sound levels indoors do not exceed 97 dBA and 105 dBC. Additionally, staff cites the findings in response to New Conditional Use criterion 40.15.15.5.C.5 in Attachments B and C that describe the recommended conditions of approval staff finds are necessary to provide additional mitigation of high and low frequency sounds beyond the DEQ standards. Staff finds that the combined actions of installing acoustic panels and complying with the recommended conditions of approval will adequately mitigate noise impacts associated with the proposed Meeting Facilities land use. Therefore, staff finds that the proposal complies with this Comprehensive Plan policy.

**Conclusion:** Therefore, staff finds that by meeting the conditions of approval, the proposal meets the criterion for approval.

## **Section 40.15.15.5.C.4**

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

## **FINDING:**

The request is to allow the Meeting Facilities land use to operate out of the existing Queenz Asian Cuisine restaurant space. No exterior building or site changes are proposed with this application. The subject property is a nearly three-acre commercial site with established commercial buildings, associated vehicular and pedestrian circulation areas, and other site improvements typical of commercial properties. The existing building where events would be held is located in the northeast corner of the property. Staff finds that the size, dimensions, configuration, topography, and features of the site reasonably accommodate the proposal as the existing site conditions meet applicable Development Code requirements and are appropriate for an indoor-only event space.

**Conclusion:** Therefore, staff finds the proposal meets the criterion for approval.

## **Section 40.15.15.5.C.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 use and development of properties in the surrounding area of the subject site.

## **FINDING:**

The applicant states that “the site contributes minimal noise to the surrounding area during daytime hours... Noise impacts [from amplified music during events] have been mitigated using soundproofing acoustic panels, existing vegetative buffers between residential uses, and a sound engineering study which was conducted by ABD Engineering & Design... to better measure noise levels on site and in the surrounding areas. The report demonstrated that noise levels for events at the restaurant meet the nighttime noise requirements for the City of Beaverton Development Code and Oregon DEQ Control Regulations as long as the interior levels inside the restaurant do not exceed 97 dBA and 105 dBC.”

The subject site is located approximately 130 feet from the nearest property line of a residential use in a residential zone, located at the northeast corner of the intersection of SW Laurelwood Avenue and SW Beaverton Hillsdale Highway. Additionally, there are residential properties located to the northwest of the site, approximately 230 feet from the nearest property line. Multi-dwelling uses are also located to the south and southeast of the subject property, approximately 200 feet to the south and 350 feet to the southeast. Except for the residentially-zoned properties backing to SW Beaverton Hillsdale Highway to the northeast, nearby properties with frontage on the State highway are commercially zoned properties, some within city limits and others to the east within unincorporated Washington County, with established commercial land uses. Across the street to the south of the site, there is a significant tree grove providing between approximately 60 to 80 feet of separation between the nearest multi-dwelling units and SW Apple Way.

Considering the proximity of residential uses and the applicant's request to hold events with amplified music, this report assesses potential livability impacts and compatibility concerns related to noise and vibration associated with the proposed Conditional Use. As detailed by the submitted sound study on page three, sound has both high and low frequency characteristics, often referred to as pitch, to which the human ear responds differently. Lower frequencies are those associated with a bass or subwoofer which cause a sound (loudness) in addition to a vibration. The sound study explains that a lower frequency sound must be played at a higher decibel level for the human ear to perceive the sound as equally loud as a high frequency sound.

The study states that the A-weighted decibel is the basic unit for noise measurement which, according to the supplemental letter submitted by the acoustical engineer, significantly reduces the contribution of low-frequency noise in the measurement. Another noise measurement method called the C-weighted decibel is a better metric for assessing low-frequency noise as there is much less low-frequency reduction. This difference is relevant to this analysis since the noise standards that apply to this proposal (DEQ regulations per BDC 60.50.25.11) use an A-weighted curve which places less emphasis on the low-frequency noise, and therefore the vibration impacts, associated with amplified sound. Although compliance with the City Noise Ordinance (City Code Chapter 5.15) is not a criterion for approval of the New Conditional Use applications, staff notes that the City Noise Ordinance also enforces noise based on the A-weighted decibel metric, limiting noise in residential areas after 10 p.m. to 50 dBA.

Regarding noise impacts, the submitted sound study demonstrates that amplified music meets applicable DEQ noise regulations when sound levels measured inside the restaurant are set to 97 dBA and 105 dBC. Staff cites the findings in Attachment A detailing compliance with Facilities Review Criterion 40.03.1.D as relevant to this criterion. As described in Attachment A, the applicant installed sound dampening acoustic panels which help mitigate noise from amplified music to a sound level that is compliant with applicable DEQ noise regulations. The submitted study shows that DEQ standards are met when doors are closed and when doors are open, as long as doors are not open for more than 30 minutes of any hour. As described in Attachment A, staff recommends a condition of approval in accordance with the findings of the submitted sound study to limit the opening and closing of windows and doors and to keep the secondary, west-facing entrance closed while amplified sound equipment is in use. Compliance with the recommended condition will both ensure DEQ standards are met and aid in mitigation of noise impacts.

Although the applicant has demonstrated that noise meets applicable DEQ standards, staff finds that additional mitigation measures are necessary to ensure that the functional characteristics of the proposal are reasonably compatible with and have a minimal impact on livability of nearby residences. First, staff references the City's Noise Ordinance which is more restrictive than the DEQ regulations and applies to all properties within city limits and will apply to the operation of the use proposed on the subject site. Therefore, although the applicant has demonstrated that the proposed use can meet the noise standard for

Conditional Use approval, the use will be subject to compliance with the City's more restrictive Noise Ordinance once it is operational.

The purpose statement of the Noise Ordinance reads, "This chapter is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the residents and visitors of Beaverton through the reduction, control, and prevention of loud and raucous noise..." (City Code Chapter 5.15.020). The Ordinance prohibits loud and raucous noise and identifies sounds in excess of 50 dBA heard on residential properties between 10:00 p.m. and 7:00 a.m. as loud and raucous (City Code Chapter 5.15.025.B). While the DEQ noise regulations allow periodic instances of noise up to 55 dBA during nighttime hours, staff finds that compliance with these standards alone will not adequately mitigate noise impacts experienced by nearby residences as documented in submitted public comment. Accordingly, staff recommends a condition of approval that sound levels inside the restaurant are set five decibels (dBA) lower than the recommendations of the submitted sound study to comply with the more restrictive standards of the City Noise Ordinance. Accordingly, sound levels inside the event space may not exceed 92 dBA.

Further, staff recommends a condition of approval that doors and windows remain closed when sound amplification equipment is in use except for normal entering and exiting of the building. Staff also recommends conditions of approval that prohibit any outdoor sound amplification or event activity. Staff finds that the cumulative effect of the recommended mitigation measures and associated conditions of approval will ensure adequate mitigation of high-frequency noise impacts, as measured by the A-weighted decibel metric. In part, compliance with these recommended conditions of approval will effectively limit impacts on livability or appropriate use and development of properties in the surrounding area.

However, staff finds that additional mitigation is necessary to adequately minimize impacts related to low-frequency noise and the associated vibration impacts caused by amplified music during events. Staff cites the public comments received, several of which describe the vibration from amplified bass felt inside the homes of nearby residences. One of the comments included a copy of an email (Exhibit 2.5, Attachment 1) dated November 9, 2022 at 10:37 p.m. which was the night the sound measurements used in the preparation of the noise study were recorded. In the email, the sender explains to an employee of Queenz that they "can still hear the thumping". Based on the details of the sound study, the thumping was heard on the residential property when the sound amplification equipment was set to 97 dBA and 105 dBC. As previously mentioned, the dBC measurement uses the C-weighted decibel metric which places greater emphasis on low frequencies such as bass. Therefore, even though amplified sound was able to meet applicable DEQ noise regulations when set to 97 dBA and 105 dBC, there are identified, unmitigated livability impacts on residential properties caused by the low-frequency bass sounds and corresponding vibrations. Because of this, staff finds that more restrictive standards on low-frequency sounds are needed to adequately minimize the vibration impacts caused by amplified music during events.

Although not applicable to this proposal to meet DEQ noise regulations pursuant to BDC 60.50.25.11, staff references a more restrictive DEQ standard, known as octave band limits, that further reduce noise levels at noise-sensitive properties compared to the standard DEQ regulations. In the supplemental letter from the acoustical engineer, the engineer states that noise levels measured at the nearest noise-sensitive property from Queenz' amplified music exceeded the 63 Hertz octave band limit by approximately eight decibels. The engineer states that the sound levels inside the event space would need to be reduced by eight decibels from 105 dBC to 97 dBC to meet the more restrictive octave band limits. Based on the findings detailed in the applicant's noise study and supplemental letter, staff finds that compliance with stricter noise standards is necessary to mitigate the low-frequency noise and vibration impacts that affect the livability of nearby residential properties. Because of this, staff recommends a condition of approval that the measured indoor sound levels may not exceed 97 dBC to establish additional noise restrictions on the proposed Conditional Use according to the octave band limits referenced in the acoustical engineer's analysis. Staff finds that the recommended condition of approval will effectively minimize impacts associated with low-frequency sounds and vibrations from amplified music.

In summary, staff recommends several conditions of approval to place restrictions on the proposed event activity and the high- and low-frequency sound and vibration associated amplified music. Together, staff finds that compliance with the conditions of approval will ensure that the requested Conditional Use to allow the Meeting Facilities land use can be made reasonably compatible with and have a minimal impact on livability and appropriate use and development of properties in the surrounding area.

**Conclusion:** Therefore, staff finds that by meeting the conditions of approval, the proposal meets the criterion for approval.

## **Section 40.15.15.5.C.6**

The proposed residential use located in the floodway fringe meets the requirements in Section 60.10.25.

### **FINDING:**

Residential uses are not proposed, and the subject site is not in the floodway fringe.

**Conclusion:** Therefore, staff finds the criterion is not applicable.

## **Section 40.15.15.5.C.7**

For parcel(s) designated Interim Washington County, the proposed use, identified in the land use designation previously held for the subject parcel(s), meets the use requirements identified in Washington County's Development Code.

### **FINDING:**

The subject site is zoned Community Service and is not designated Interim Washington County; therefore, this criterion is not applicable.

**Conclusion:** Therefore, staff finds the criterion is not applicable.

## **Section 40.15.15.5.C.8**

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

### **FINDING:**

The applicant submitted a New Conditional Use (Extended Hours of Operation) application to be processed concurrently with this New Conditional Use (Meeting Facilities) request. The applications were deemed complete on December 21, 2022, and all required submittal materials have been received at this time.

**Conclusion:** Therefore, staff finds that the proposal meets the criterion for approval.

## **CONCLUSION & RECOMMENDATION**

Based on the facts and findings presented, staff recommends APPROVAL of CU2022-0006. Should the Planning Commission determine the application should be approved, staff recommends it is subject to the applicable conditions identified in Attachment D.



# Attachment C: NEW CONDITIONAL USE CU2022-0007 (EXTENDED HOURS OF OPERATION)

## ANALYSIS AND FINDINGS FOR NEW CONDITIONAL USE APPROVAL

**Recommendation:** Based on the facts and findings presented below, staff recommends **APPROVAL** of **CU2022-0007**. Should the Planning Commission determine that the application should be approved, staff recommends that the Planning Commission adopt the conditions identified in Attachment D.

### Section 40.03.1 Facilities Review Approval Criteria:

The applicant for development must establish that the application complies with all relevant standards in conformance with Section 50.25.1.B, and all the following criteria have been met:

#### Facilities Review Approval Criteria Section 40.03.1.A-L

##### FINDING:

Staff has reviewed the applicable Facilities Review criteria in Attachment A to this report. Staff cites the findings presented in Attachment A in response to the Facilities Review approval criteria. As identified in Attachment A, above, by meeting the conditions of approval, the proposal meets Criteria A-L, and therefore meets the criterion for approval.

**Conclusion:** Therefore, the Committee finds that by meeting the conditions of approval, the proposal meets the criteria.

### Section 40.15.05 Purpose:

The purpose of a Conditional Use application is to review uses that may be compatible in the underlying zoning district but because of their size, operation, or other characteristics require review on a case-by-case basis. These uses are subject to the regulations in this Section because they may, but do not necessarily, result in significant adverse effects upon the environment, overburden public services, alter the character of the surrounding area or create nuisances. Conditional Uses may be approved, approved with site-specific conditions designed to minimize or mitigate identified adverse impacts, or denied. This Section is carried out by the approval criteria listed herein.

### Planning Commission Standards for Approval:

Section 40.15.15.5.C of the Development Code provides standards to govern the decisions of the Planning Commission as they evaluate and render decisions on New Conditional Use Applications. The Planning Commission will determine whether the application as presented,

meets the New Conditional Use approval criteria. In this portion of the report, staff evaluates the application in accordance with the criteria for New Conditional Use.

To approve a New Conditional Use application, the Planning Commission shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

### **Section 40.15.15.5.C.1**

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

#### **FINDING:**

The applicant's proposal is to allow extended hours of operation to host events later than 10:00 p.m. Specifically, the applicant requests the following extended hours of operation:

- Sundays through Thursdays: Events end (music off) by 10:00 p.m. All on-site activity including clean up ends by 11:30 p.m.
- Fridays and Saturdays: Events end (music off) by 12:00 a.m. All on-site activity including clean up ends by 1:30 a.m.

Uses operating between 10:00 p.m. and 7:00 a.m. within 500 feet of an existing residential use in a residential zone is a Conditional Use in the underlying Community Service zoning district. The subject site is located approximately 130 feet from the closest residential use in a residential zoning district. No prior Conditional Use approval for the proposed hours of operation is in effect for the requested Meeting Facilities land use. Accordingly, staff finds the proposal is subject to a New Conditional Use review by meeting Threshold 1 which reads:

- 1. 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.*

**Conclusion:** Therefore, staff finds the proposal meets the approval criterion.

### **Section 40.15.15.5.C.2**

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

#### **FINDING:**

The applicant paid the required fee for this New Conditional Use application.

**Conclusion:** Therefore, staff finds the proposal meets the approval criterion.

## Section 40.15.15.5.C.3

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

### FINDING:

The following Comprehensive Plan policy applies to this project:

***Environmental Quality and Safety Element Policy 8.4.1.a. Noise impacts shall be considered during development review processes.***

***Action 1: Adopt and implement appropriate design standards for development permits for all commercial, industrial, high density, mixed use and transportation projects, and others as appropriate. Development applications should be required to demonstrate compliance with applicable noise level standards. Means of meeting the design standards might include, but are not limited to:***

- ***Use of year-round landscape elements that absorb parking lot and street noise.***
- ***Use of underground parking.***
- ***Use of extra-thick windows.***
- ***Facades constructed of materials that help to absorb sounds.***
- ***Pervious surface landscape and parking lot materials that absorb sounds.***
- ***Use of building materials that aid in the reduction of sound traveling through common floors and walls.***
- ***Dampers on heating and cooling equipment.***

The proposal is to host events with amplified music with activity occurring between the hours of 10:00 p.m. and 7:00 a.m. Specifically, amplified music is proposed to cease no later than the following times:

- Sunday through Thursday: Music to be turned off no later than 10:00 p.m.
- Friday and Saturday: Music to be turned off no later than 12:00 a.m.

After amplified music is turned off, the applicant proposes an additional one and a half hours of clean up to occur each evening. No noise impacts related to clean up activity have been identified, so noise impacts from amplified music during the applicant's requested extended hours of operation from 10:00 p.m. and 12:00 a.m. on Friday and Saturday nights must be evaluated for compliance with this Comprehensive Plan policy.

The applicant states that to reduce noise, Queenz installed 14 two-foot by four-foot acoustic panels along all walls to damp out sound [from amplified music during events]. The applicant adds that Queenz will also limit the sound levels inside the restaurant to not exceed 97 dBA and 105 dBC based on DEQ Noise Control Regulations and the Beaverton Development Code.

Staff cites the response in Attachment A to Facilities Review criterion 40.03.1.D which addresses the applications' compliance with applicable noise standards of BDC 60.50.25.11. The submitted noise study demonstrates that the installed sound dampening acoustic panels provide adequate mitigation to meet the applicable DEQ noise regulations when sound levels indoors do not exceed 97 dBA and 105 dBC. Additionally, staff cites the findings in response to New Conditional Use criterion 40.15.15.5.C.5 in Attachments B and C that describe the recommended conditions of approval staff finds are necessary to provide additional mitigation of high and low frequency sounds beyond the DEQ standards. Staff finds that the combined actions of installing acoustic panels and complying with the recommended conditions of approval will adequately mitigate noise impacts associated with the proposed Conditional Use for extended hours of operation. Therefore, staff finds that the proposal complies with this Comprehensive Plan policy.

**Conclusion:** Therefore, staff finds that by meeting the conditions of approval, the proposal meets the criterion for approval.

### **Section 40.15.15.5.C.4**

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

#### **FINDING:**

This New Conditional Use application requests extended hours of operation to host events with amplified music inside the existing building. The applicant does not propose changes to the existing building or site. As this request is limited to extended hours of operation and the activity is proposed inside an existing commercial building, staff finds that the size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.

**Conclusion:** Therefore, staff finds the proposal meets the criterion for approval.

### **Section 40.15.15.5.C.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 use and development of properties in the surrounding area of the subject site.

#### **FINDING:**

The proposal is to host events with amplified music inside the existing building after 10:00 p.m. Events are proposed to end and amplified sound turned off by 10:00 p.m. Sunday through Thursday and by 12:00 a.m. on Friday and Saturday nights. Employee-only activities such as cleaning are proposed to continue for one and a half hours after the end of the events. Staff cites the findings of Attachment B in response to New Conditional Use

(Meeting Facilities) criterion 40.15.15.5.C.5 which details staff's analysis of noise and vibration impacts. The findings in Attachment B describe the conditions of approval that staff recommends to adequately mitigate these impacts in addition to the action the applicant has already taken to install sound-dampening acoustic panels. Recommended conditions of approval for noise and vibration impact mitigation include the following:

- Measured sound levels inside the primary event space may not exceed 92 dBA and 97 dBC.
- All event activities must occur indoors except for normal loading and clean up activities.
- When amplified sound equipment is in use, all doors and windows shall be kept closed except for normal entering and exiting, and the secondary, west-facing entrance must remain closed.
- No sound amplification of any kind may occur outdoors.

As the recommended conditions of approval apply to all hours of event operation and amplified sound, compliance with the conditions will effectively limit noise and vibration impacts at all times, including during the extended hours of operation requested by this New Conditional Use application. Therefore, staff finds that, by meeting the recommended conditions of approval, the proposal can be made reasonably compatible with and have a minimal impact on livability and appropriate use and development of properties in the surrounding area of the subject site.

**Conclusion:** Therefore, staff finds that by meeting the conditions of approval, the proposal meets the criterion for approval.

## **Section 40.15.15.5.C.6**

The proposed residential use located in the floodway fringe meets the requirements in Section 60.10.25.

### **FINDING:**

A residential use is not proposed, and the subject property is not located within the floodway fringe. Therefore, this criterion is not applicable.

**Conclusion:** Therefore, staff finds the criterion is not applicable.

## **Section 40.15.15.5.C.7**

For parcel(s) designated Interim Washington County, the proposed use, identified in the land use designation previously held for the subject parcel(s), meets the use requirements identified in Washington County's Development Code. [ORD 4782; April 2020]

### **FINDING:**

The subject site is zoned Community Service and is not designated Interim Washington County; therefore, this criterion is not applicable.

**Conclusion:** Therefore, staff finds the criterion is not applicable.

## **Section 40.15.15.5.C.8**

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

### **FINDING:**

The applicant submitted a New Conditional Use (Meeting Facilities) application to be processed concurrently with this New Conditional Use (Extended Hours of Operation) request. The applications were deemed complete on December 21, 2022, and all required submittal materials have been received at this time.

**Conclusion:** Therefore, staff finds that the proposal meets the criterion for approval.

## **CONCLUSION & RECOMMENDATION**

Based on the facts and findings presented, staff recommends APPROVAL of CU2022-0007. Should the Planning Commission determine the application should be approved, staff recommends it is subject to the applicable conditions identified in Attachment D.

# Attachment D: RECOMMENDED CONDITIONS OF APPROVAL

**Application:** Queenz Asian Cuisine

**Recommendation:** APPROVE CU2022-0006 / CU2022-0007

## New Conditional Use – Meeting Facilities (CU2022-0006)

### **A. General Conditions:**

1. At all times when an event is occurring, the restaurant use shall not operate. (Planning / BG)
2. All event activities shall occur indoors except for normal loading and clean up activity. (Planning / BG)
3. At all times when amplified sound equipment is in use, all doors and windows shall be kept closed, except to allow for normal entering and exiting of the building. The secondary, west-facing building entrance closest to the stage may not be used at any time when there is amplified sound. (Planning / BG)
4. No sound amplification of any kind may occur outdoors. (Planning / BG)
5. At all times when any sound amplification device(s) is in use, sound levels as measured inside the primary event space may not exceed 92 dBA (fast max) and 97 dBC (fast max). (Planning / BG)
6. Final decision shall expire automatically two years from the effective date of decision unless the approval is enacted through establishment of the use within the two-year time period. (Planning / BG)
7. The Conditional Use permit shall run with the land and shall continue to be valid upon a change of ownership of the site, unless otherwise specified in conditions attached to the permit. (Planning/BG)

### **B. Prior to building permit issuance, the applicant shall:**

8. Submit required Building Permit application materials and fees as determined by the Building Division for the existing acoustic panels installed in the building. (Planning / BG)

### **C. Prior to final inspection/occupancy of the building permit, the applicant shall:**

9. Have completed the installation of two short-term and two long-term bicycle parking spaces as shown on the submitted plans in accordance with the requirements of BDC 60.30.10 and Engineering Design Manual Section 340. (Planning / BG)
10. Have obtained issuance of final occupancy of the following Building Permits associated with the existing building and restaurant use: B2019-3154, B2020-0059, B2019-4017, and B2022-2815. (Planning / BG)

**D. Prior to commencement of the Meeting Facilities use, the applicant shall:**

11. Have obtained final inspection/occupancy of Building Permits for the acoustic panels, B2019-3154, B2020-0059, B2019-4017, and B2022-2815. (Planning / BG)

**New Conditional Use – Extended Hours of Operation (CU2022-0007)**

**A. General Conditions:**

1. Ensure that the New Conditional Use (CU2022-0006) application has been approved and is consistent with the submitted plans. (Planning / BG)
2. The Conditional Use permit shall run with the land and shall continue to be valid upon a change of ownership of the site, unless otherwise specified in conditions attached to the permit. (Planning/BG)
3. Final decision shall expire automatically two years from the effective date of decision unless the approval is enacted through establishment of the use within the two-year time period. (Planning / BG)
4. All event (Meeting Facilities) activity shall cease no later than the following times (Planning / BG):
  - a. Sunday through Thursday: Events shall end no later than 10:00 p.m. No sound amplification may occur after 10:00 p.m. All on-site activity, including but not limited to clean up and other employee-only responsibilities, shall cease no later than 11:30 p.m.
  - b. Friday and Saturday: Events shall end no later than 12:00 a.m. No sound amplification may occur after 12:00 a.m. All on-site activity, including but not limited to clean up and other employee-only responsibilities, shall cease no later than 1:30 a.m.
5. At all times when any sound amplification device(s) is in use, sound levels as measured inside the primary event space may not exceed 92 dBA (fast max) and 97



dBC (fast max). (Planning / BG)

6. All event activities shall occur indoors except for normal loading and clean up activity. (Planning / BG)
7. At all times when amplified sound equipment is in use, all doors and windows shall be kept closed, except to allow for normal entering and exiting of the building. The secondary, west-facing building entrance closest to the stage may not be used at any time when there is amplified sound. (Planning / BG)
8. No sound amplification of any kind may occur outdoors. (Planning / BG)

**B. Prior to commencement of the Extended Hours of Operation, the applicant shall:**

9. Have obtained final inspection/occupancy of Building Permits for the acoustic panels, B2019-3154, B2020-0059, B2019-4017, and B2022-2815. (Planning / BG)