

CITY OF FIRCREST PLANNING COMMISSION
Notice of Decision / Resolution No. 18-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FIRCREST, WASHINGTON, APPROVING A MAJOR PRELIMINARY SITE PLAN TO DEMOLISH THREE EXISTING BUILDINGS AND CONSTRUCT A 4,706 SQUARE FOOT CHICK-FIL-A RESTAURANT WITH DRIVE-THROUGH FACILITY AT 6518, 6520 AND 6602 19TH STREET WEST

WHEREAS, an application was made by Chick-fil-A on March 3, 2018 for a major preliminary site plan to demolish two existing buildings located at 6518, 6520 and 6602 19th Street West, Fircrest and construct a 4,706 square foot restaurant with drive-through facility; and

WHEREAS, the application was assigned Case Number 18-06 and deemed complete on April 6, 2018; and

WHEREAS, a Notice of Application was issued on April 17, 2018 with a comment period of at least 14 days ending May 1, 2018; and

WHEREAS, a public hearing notice was mailed to owners of property located within 500 feet of the subject property on July 9, 2018, a legal notice for the hearing was published on July 10, 2018 in the Tacoma Daily Index, and the project site was posted July 10, 2018; and

WHEREAS, the subject property is designated *Commercial Mixed Use* in the City's Comprehensive Plan; and

WHEREAS, the subject property is zoned *Commercial Mixed Use*, which permits food-serving establishments including restaurants and other sit-down, self-service or take-out establishments, subject to site plan approval and administrative design review approval; and

WHEREAS, the Commission has held a public hearing on this application on July 19, 2018, considered public comment, and has examined pertinent maps, drawings, and documents; and

WHEREAS, the Commission has made the following Findings of Fact and Conclusions of Law:

1. As conditioned, the proposed use and site design will not be detrimental to the public health, safety, and welfare; injurious to property or improvements in the vicinity; or adversely affect the established character of the surrounding vicinity.

As conditioned, the area documented with an elevated arsenic concentration will be excavated, properly disposed, and confirmation samples will be collected in order to document the removal of the arsenic contaminated soil. In addition, when the structures are removed, sampling within their footprints will be conducted in order to further characterize the shallow soils not currently accessible. Submittal of the final report and review by Ecology will be required to work towards receiving a No Further Action (NFA) determination for the site.

Sidewalk modifications to the project's 19th Street frontage, the installation of a landscape median island in front of the site, and access controls for the westerly driveway, will enhance pedestrian safety and minimize vehicular turning movement conflicts. The project design, which places the drive-through facility to the rear of the restaurant building and emphasizes the establishment of pedestrian facilities and an outdoor eating plaza between the building and the public street and sidewalk, will not adversely affect the established character of the surrounding vicinity.

2. As conditioned, and through the granting of a parking space variance to exceed the maximum number of spaces allowed, the proposed use and project design will meet or exceed all applicable development, design and performance standards and guidelines required for the specific use, location, or zoning classification.
3. The proposed redevelopment of two CMU-designated and zoned properties for a new restaurant will be consistent and compatible with the following Comprehensive Plan policies:

Policy LU2.3

The City should promote compatibility between land uses and minimize land use conflicts when there is potential for adverse impacts on lower-intensity or more sensitive uses by:

- Ensuring that uses or structures meet performance standards that limit adverse impacts, such as noise, vibration, smoke and fumes; and
- Creating an effective transition between land uses through building and site design, use of buffers and landscaping, or other techniques.

Policy LU6.2

Fircrest should encourage development of new businesses and expansion of existing businesses to help meet the retail and service needs of Fircrest's residents. New businesses should be recruited to the City to expand and diversify the City's employment base.

Policy LU6.6

Automobile-oriented businesses such as restaurants with drive-up windows may be permitted in commercial mixed use areas subject to compliance with

screening and other site development standards intended to minimize impacts on neighboring properties. Site design for such businesses should ensure safe and convenient pedestrian access separate from drive-up access and that does not require the pedestrian to cross drive-up facilities to reach the pedestrian entry. Site design shall consider the safety of motorists, bicyclists, and pedestrians on the streets, shoulders, and sidewalks adjacent to the business driveways.

Policy LU6.7

The visual appearance of commercial areas should be improved through public and private measures for beautification, implementation of design strategies, maintenance, and streetscape improvements. Commercial and mixed use buildings should conform to design guidelines to ensure architectural compatibility with surrounding neighborhoods. Where commercial rehabilitation, development, or redevelopment occurs in an area with historic significance, it should be sensitive to the historic fabric of the area. New commercial and mixed use development should incorporate landscaping, seating, and other pedestrian-supportive amenities to provide pleasant and comfortable resting, socializing, and picnicking areas for employees and shoppers.

Policy LU6.8

Commercial and mixed use development should include high quality, safe, and contiguous facilities for pedestrians, bicyclists, disabled persons, and users of the public transit services. Fircrest should work with public transit providers to improve transit service to commercial mixed use and neighborhood commercial areas. Commercial and mixed use development should be designed to take into consideration the connections, both vehicular and pedestrian, to adjoining sites to reduce personal automobile trips. Sidewalks and internal pathways should be incorporated to enhance pedestrian circulation.

Policy LU6.9

Maximum automobile parking standards should be implemented for various types of commercial development. Shared parking facilities should be encouraged. Parking areas shall include plantings of vegetation that reduce its visual impact through effective screening and the establishment of a substantial tree canopy. Design standards that strongly encourage the placement of parking to the side or rear of buildings should be implemented. Parking facilities should conform to the parking-related policies of the Transportation Element.

Policy LU6.11

A mix of retail, office, service, and residential uses should be encouraged in commercial mixed use and neighborhood commercial areas.

Policy LU6.12

Redevelopment of vacant and underutilized sites should be encouraged.

Policy T3.6

Use traffic circles, landscaped medians, pedestrian bump-outs and other traffic calming measures to reduce speeds and increase safety. Where appropriate, design these facilities to provide pedestrian refuge areas that reduce pedestrian crossing distances, reduce conflict points and enhance streetscape landscaping. Use other traffic calming measures that offer pedestrian protection such as on-street parking, or increase driver awareness of pedestrians through the use of textured pavement and signage.

4. All conditions necessary to lessen any impacts of the proposed use are measurable and can be monitored and enforced. The conditions of approval listed below will ensure that all potential impacts resulting from the project are mitigated to a satisfactory level in conformance with applicable code requirements. All proposed conditions can be monitored and enforced through the administrative design review, site development permit, and building permit approval processes and subsequent site inspection process.

THEREFORE BE IT RESOLVED that the Planning Commission of the City of Fircrest hereby approves the administrative use permit for Case 18-06 with the following conditions:

1. The applicant shall obtain administrative design review approval prior to issuance of a building permit for the restaurant building and associated drive-through facility, construction of parking lot and other circulation improvements, installation of signage, installation of landscaping, and initiation of other site improvements.
2. The applicant shall obtain site development permit approval from the City of Fircrest prior to commencing work on site improvements and other new construction.
3. The final plans shall be designed in substantial conformance with the preliminary plans provided as Exhibit 2 to the staff report and approved pursuant to Case 18-06.
4. The proposal shall comply with all applicable design guidelines for drive-through facilities in FMC 22.64.043.
5. The proposal shall comply with all development standards specified for the CMU District in accordance with FMC 22.50.008.
6. The proposal shall be designed and constructed in accordance with all applicable performance standards in FMC 22.58.008.
7. Outdoor lighting shall be designed in accordance with FMC 22.58.018. An outdoor lighting plan shall be submitted to and approved by the City prior to installation of outdoor lighting and the City's approval of occupancy.

8. Landscaping shall be designed, installed and maintained in accordance with FMC 22.62 or as authorized through the administrative design review process. A final landscape plan shall be submitted to and approved by the City prior to issuance of permits and installation of landscaping.
9. Parking and circulation areas shall be designed and constructed in accordance with FMC 22.60.
10. Prior to the City's approval of occupancy, the applicant shall demonstrate project compliance with FMC 22.64.043 (13), which requires sound emanating from ordering board speakers or other speaker systems to be limited to a level that is not audible from residentially used properties or detrimental to occupants of other nearby properties. At no time should any speaker system be audible above ambient noise levels beyond the property lines of the site.
11. The applicant shall coordinate with the Fircrest Police Department in developing effective measures to control driveway conflicts at 19th Street West, if determined necessary by the Department. Measures may include, but not be limited to, uniformed Police being present at the site to enhance traffic control.
12. The public street sidewalk shall be widened on 19th Street West to a minimum seven-foot width along the project frontage and to the nearest existing driveway approach located west of the project site.
13. The applicant shall work with the City of Fircrest to design and install effective signage that will inform the traveling public that the westerly driveway is to be used for right-turn-in and right-turn-out movements only.
14. All stormwater facility improvements must have final design plans (including applicable notes and details) and the Preliminary Stormwater Site Plan/Report approved by the City Engineer prior to construction. The plans must be prepared by a licensed engineer in the State of Washington and contain all information required by the Fircrest Municipal Code to the satisfaction of the City Engineer.
15. The applicant shall submit for City approval and record a Commercial Agreement to Maintain Stormwater Facilities.
16. The applicant shall comply with all Tacoma Water, Tacoma Power and Tacoma Sewer utility requirements.
17. The applicant shall provide the City of Fircrest with Bills of Sales for all utilities that will be in the ownership of the City of Fircrest upon completion of construction.
18. Coverage under the National Pollution Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Stormwater Discharges Associated

with Construction Activities (SWDGPSDACA) is required for construction sites that disturb an area of one acre or more and have or will have a discharge of storm water to surface water or a storm sewer. Any required permits shall be obtained prior to the start of clearing, grading or construction on the site.

19. The project shall comply with the following SEPA mitigation measures:

- The on-site and off-site circulation plan shall be revised to limit ingress/egress for the proposed westerly driveway on 19th Street West to right in/right out only. The applicant shall install a median landscape island within the center turn lane located opposite the proposed westerly driveway. This island shall be designed to preclude left turn in/left turn out turning movements at the westerly driveway. At the mutual discretion of the City of Tacoma and City of Fircrest, this island may be extended in length to the west, and to the east, of the existing barrier located opposite the proposed westerly driveway to discourage U-turn movements by vehicles entering or exiting the nearby TCC driveway on the north side of 19th Street West. The final design shall ensure that the proposed easterly driveway will provide full access to and from the proposed restaurant parking lot and drive-through facility. The cities of Fircrest and Tacoma will cooperatively determine the landscape design, the applicant shall fund the installation of the island and its landscaping, and the cities of Fircrest Tacoma will cooperatively pursue a maintenance agreement to ensure municipal maintenance of the median island landscaping.
- The project site is mapped within the Tacoma Smelter Plume study area as possibly containing concentrations of arsenic and lead in shallow soils above the Washington State Model Toxics Control Act (MTCA) Method A cleanup level. Terracon Consultants, Inc, has conducted a limited site investigation in accordance with Ecology's Tacoma Smelter Plume Model Remedies Guidance. Terracon concludes that the soil samples submitted for analysis do not contain lead at concentrations above the MTCA Method A cleanup level. However, one soil sample contains arsenic at a concentration of 180 mg/kg, which exceeds both the MTCA Method A cleanup level of 20 mg/kg and the elevated arsenic concentration level of 40 mg/kg listed in Ecology's Tacoma Smelter Plume Model Remedies Guidance. Since the arsenic concentration for the sample collected at HA1 exceeded 40 mg/kg, the arsenic level for the location of the property is considered "elevated" and will require additional assessment and possibly cleanup measures.

The applicant shall develop a soil remediation plan and enter into a Voluntary Cleanup Program with Ecology. The applicant shall obtain an opinion letter from Ecology stating that the proposed soil remediation plan will likely result in no further action under MTCA – and provide this letter to the City of Fircrest.

Prior to the City authorizing site development work beyond that necessary to remediate the site, the applicant shall provide the City with a “No Further Action” determination from Ecology indicating that the remediation plans were successfully implemented under MTCA.

- Extra precautions shall be taken to avoid escaping dust, soil erosion and water pollution during grading and site construction. Site design shall include protective measures to isolate or remove contaminated soils from publicly accessible spaces. Any contaminated soils generated during site construction shall be managed and disposed of in accordance with state and local regulations, including the Solid Waste Handling Standards regulations (Chapter 173-350 WAC).

20. Prior to demolition of any existing structures, the applicant shall obtain a demolition permit from the City. Prior to demolition, any potentially dangerous or hazardous materials present, such as asbestos, PCB-containing lamp ballasts, fluorescent lamps, and wall thermostats containing mercury, shall be removed and disposed of in accordance with the “Dangerous Waste Rules for Demolition, Construction, and Renovation Wastes” posted at the Department of Ecology’s website, [www.ecy.wa.gov/ programs/hwtr/demodebris/](http://www.ecy.wa.gov/programs/hwtr/demodebris/).

21. If the water or sewer infrastructure servicing an adjacent property requires alterations, the applicant shall coordinate necessary modifications directly with the property owner. The applicant shall use licensed and insured contractors throughout the development of the project.

PASSED AND ADOPTED by the Planning Commission of the City of Fircrest on the 19th day of July, 2018 by the following vote:

AYES: ()

NOES: ()

ABSENT: ()

Karen Patjens, Planning Commission Chair

ATTEST: _____
Angelie Stahlnecker, Planning Administrator

Assessor's Notice per HB 2567: Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

Information Regarding Appeals

Appeals of this decision shall be governed by the provisions contained within Fircrest Municipal Code Chapter 22.10. Only parties of record have standing to appeal the Planning Commission's decision. An appeal of this decision must be filed within fourteen (14) calendar days of the date of this Notice of Decision, which is July xx, 2018. Therefore, the appeal deadline for this decision is August xx, 2018 at 5:00 PM. Appeals shall be in writing, accompanied by an appeal fee, and containing the information requested in FMC 22.10.004(A)(4). For more information, contact Angelie Stahlnecker, 115 Ramsdell Street, Fircrest WA 98466, 253-238-4125 or planning@cityoffircrest.net.

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