

## Conditional Use Permit Recommendation & SEPA Determination

**Date:** March 7, 2025

**Project:** Chick-Fil-A (CUP 2-24)

**Location:** 680 Hwy 20 & 808 Nevitt Rd

**Parcel(s):** P23672 & P23664

**Applicant:** Steve Schwartz, Chick-fil-A, Inc.

**Staff:** Miranda Sires, Planner MS

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### Summary:

On December 12, 2024, the City received an application for a conditional use permit to construct a Chick-Fil-A restaurant off of Nevitt Road Drive. The proposed development consists of a restaurant building with two queueing lanes and an indoor play area. The project will involve demolishing existing buildings, clearing, grading, and the installation of related landscaping, stormwater, and utility improvements. After reviewing the applicant's proposal, the conditions of the surrounding area, and the relevant approval criteria, the Community Development Department recommends a conditional use permit for the proposed development to be approved.

### Findings:

1. The proposed development involves a 4,986 square foot (SF) Chick-fil-A restaurant with indoor seating and a drive-through window. The existing site is occupied by a 10-room motel that will be removed with the project. The project will involve demolishing existing buildings, clearing, grading, and the installation of related landscaping, stormwater, and utility improvements.
2. As illustrated on attached exhibit "2" the project site is comprised of two parcels. The property is bounded to the north by State route 20, to the east there is an access easement, to the south is McDonalds, and to the west is Nevitt Road. The site consists of 2 separate parcels with a total area of approximately 3 acres (130,680 sq. ft.).

3. The site is currently occupied with a 10-room motel that sits to the north closest to State Route 20 along with approximately 30 parking stalls and some paving and the rest of the site is vegetated. The motel will be removed, and the site will be reconfigured with landscaping and paving and the added restaurant building of almost 5,000 square feet.
4. The property is currently zoned “MUC-2” (Mixed-Use Commercial 2) and is subject to a comprehensive plan designation of “MUC” (Mixed-Use Commercial). The properties to the south and west of the project site are also zoned MUC-2. The property to the north, on the opposite side of State Route 20 is zoned “RA-2” (Residential Attached), and the property to the east of the project site is zoned PFT-2 (Public Facilities and Transportation) which is where the interstate I-5 is located (see exhibit “4”).
5. The surrounding land uses area is comprised of a wide variety of uses including residential area, gas stations, other drive-through restaurants, I-5 freeway, and other retail stores.
6. The application included a Letter of Map Amendment (LOMA) issued by the Federal Emergency Management Agency (FEMA) removing the site from the regulatory floodplain. Because of the LOMA the site is no longer in the regulatory floodplain and therefore exempt from the City’s flood development regulations and habitat assessment requirements. However, the City still requires that all building, regardless of whether or not they are located in the regulatory floodplain, be constructed with a finished floor elevation at least one foot above the base flood elevation (BMC 14.15.430.B.1). As a condition of approval, the applicant will be required to demonstrate compliance with this requirement (condition “11”).
7. In the MUC-2 zone, drive-throughs can be permitted in this zone with a conditional use permit if they are at a location where it is a corner lot and there is a signalized intersection (BMC.17.50.070.C.1.a).
8. Conditional use permits are classified as “type III” permits. Type III permit decisions must be made by the City Hearing Examiner (BMC 14A.05.060.C.7).
9. The application for this permit was submitted on December 12, 2024. Following the submittal of a land use application the City is required, within 28 days, to determine whether or not the application constitutes a “complete” application. On December 17, 2024, the City determined the application was complete.
10. Once an application has been deemed complete, public notice of the application is required and a 14-day comment period must be provided (BMC 14A.050.100 & 14A.05.090.C). In accordance with these requirements, notice of the proposed development was published in the Skagit Herald, mailed to surrounding property owners, and public notice sign was posted on the site. The public comment period began on December 17, 2024, and ended on January 1, 2025. It is the City’s practice to accept, and

consider, any comments submitted prior to the preparation of the staff report/Hearing Examiner recommendation. As of February 25, 2025, the City received one comment from Diane Steen who is the owner of the Holiday Market that is to the West of the property. The comment had concerns with traffic and parking capacity. The City also received comments from the Washington State Department of Transportation (WSDOT) regarding SR-20 access and the Traffic Impact Analysis submitted by the applicant.

11. State Route 20 is classified as a Major Arterial (Principal) road and sidewalks shall be provided on both sides of the street and shall have a minimum width of ten feet and a buffer strip with a minimum width of five feet shall be provided between the curb and sidewalk (BMC.12.28.120). Nevitt Road is a “minor arterial” and the required sidewalk width for a minor arterial is eight feet (BMC.12.28.130). The plans show that the sidewalk on state route 20 will be widened to 10 feet and Nevitt road will be widened to 8 feet and therefore complying with the code. As a condition of approval, the applicant will need to provide any additional right-of-way needed to accommodate the required improvements (condition “7”).
12. As part of the conditional use requirements for drive-throughs, the design shall incorporate enhanced pedestrian amenities and measures to mitigate the impacts of additional vehicle traffic on pedestrian access (BMC.17.50.070.C.7). The revised traffic report that was sent states they will be addressing the enhanced pedestrian amenities by widening the sidewalk on State Route 20 to 10 feet, however, that is already a requirement per BMC.12.28.120 and does not fully address any enhancements for pedestrian amenities. Examples of enhanced pedestrian amenities include plazas, raised crosswalks, benches, pedestrian lighting, street trees, pedestrian signage, wider sidewalks, and awnings or overhangs providing weather protection for pedestrians. The plans do show wider sidewalks, pedestrian lighting, a plaza near the building, however all of these enhancements follow under other required codes. One way to satisfy the requirements of enhanced pedestrian amenities is to add a 5 foot in width sidewalk along the access road off of State Route 20. As a condition of approval, the plans shall be revised to show enhanced pedestrian amenities (See condition “7”).
13. Drive-throughs are required to include a raised pedestrian crossing wherever a pedestrian path crosses a queuing lane (BMC 17.50.070.C.5). The applicant’s plans show pedestrian paths crossing queuing lanes in two locations. The plans do not clearly show that the crossings will be raised. As a condition of approval, the civil plans must be revised to show raised pedestrian crossing across the queuing lanes (condition “7”).
14. The plans show that the access road to the east off of State Route 20 will be utilized as an access road to the proposed restaurant and will connect through the site all the way through to Nevitt road. However, the City does not own this access road. In order for the applicant to utilize the access road, the City will need written authorization from the Department of Transportation stating that the applicant may utilize the access road along with any maintenance requirements that WSDOT may have for this road (See condition

“7”). In addition, the applications materials do not clearly show how this road will be improved. Notably, the pavement is currently in poor condition and portions of the access road are gravel. Because the access road is located on public property, it is not clear which set of design standards apply. Notably, the road does not appear to be a “shared driveway” or “private street” since those terms are defined as public rather than private, since all of these access types are identified as private (BMC 17.01.050). The function of the road, serving little or no through traffic, seems most consistent with the classification criteria for a “public access street” (BMC 12.28.070). Staff recommend that the access road along the eastern site boundary be classified as access street and that the improved right-of-way standards for access streets be applied. For this location, the required right-of-way improvements would consist of two travel lanes (each with a minimum width of ten feet) and a sidewalk along the western edge of the road (with a minimum width of five feet (BMC 12.28.150) (condition “7”).

15. The revised traffic report that was sent in states that Nevitt Road will be widened to 10 feet to address the enhanced pedestrian amenities requirement, however, on the plans it shows that the sidewalk along Nevitt Road will only be widened to 8 feet. As a condition of approval, please send in an addendum to the traffic report stating that the sidewalk along Nevitt road will be 8 feet in width and not 10 (See condition “8”).
16. There are no minimum property line setback requirements in the MUC-2 zone. However, new buildings are normally subject to a *maximum* street setback of 10 feet (BMC 17.50.090.D). The plans submitted with the application (exhibit “2”) indicate the building will be located along the Nevitt Road street frontage. The plans show that there will be two queueing lanes making the building setback further than 10 feet from the street. However, a building may exceed the maximum setback of 10 feet if a portion of their building is extended out (BMC.17.50.090.D). The plans show that there will be two attached canopies that extend over the queueing lanes thereby allowing the with the maximum street setback for the MUC-2 zone. However, the plans do not provide much detail on the design of the proposed awnings. In order to meet the intent of the code, by establishing a clearly defined building line within ten feet of the street, the awnings will need to include vertical supports and full height walls or screening elements, such as slats, bars, opaque glass or other similar architectural features. As a condition of approval, revised building details shall be included demonstrating compliance with the maximum setback requirement (condition “18”).
17. A landscaping plan is required for this project and must demonstrate compliance with the City’s landscaping standards (BMC 17.81.020 and 17.81.050.A). The landscaping plan must be prepared by a licensed landscape architect (BMC 17.81.050.B). The application included a preliminary landscaping plan prepared by a licensed landscape architect, Jeff M. Varley, and therefore complies with the code.

18. A minimum of 15 percent of the site must be landscaped (BMC 17.81.060.C). The site has a total area of approximately 46,740 square feet, meaning a minimum of 7,011 square feet of landscaping must be provided. The preliminary landscaping plan submitted with the application depicts landscaping buffers located around the perimeter of the site, along the street frontage and shows parking lot landscaping as well. However, on the plans there is no calculation showing that at least 15 percent of the site will be landscaped so it is hard to tell if it meets the minimum. As a condition of approval, the plans shall be revised to show a calculation table stating the percentage of landscaping that is being proposed (See condition “8”).
19. Street frontage landscaping, consisting of a strip at least ten feet wide planted with street trees at intervals of 30 feet, must be provided along all street frontages (BMC 17.81.070.A). The landscaping plan illustrates the required street frontage landscaping along both State Route 20 and Nevitt road. However, there are no dimensions or a table showing how many trees are required and what will be provided. In order to determine compliance with the City’s Street tree requirements additional detail on tree spacing showing the required number of trees and the number of trees that will be provided along with the street frontage landscaping strip dimension (See condition “8”).
20. Landscaping strips must be provided along interior lot lines and must have a minimum width of five feet. In addition, one tree must be provided for every 30 feet of perimeter landscaping buffer (BMC 17.81.080.A & B). The preliminary landscaping plan depicts a buffer strip along the southern property boundary planted with tree and shrubs, however, there is no dimension to show if the perimeter landscaping strip is 5 feet in width minimum. There also does not appear to be a perimeter landscaping strip of 5 feet to the east property line and there do not appear to be trees to the southeastern as well. As a condition of approval, there shall be dimensions labeled on the plans showing that the perimeter landscaping strip to the east and to the south are 5 feet in width as well as showing the required number of trees and what will be provided (See condition “8”).
21. The plans show that the existing trees that are currently on the site will be removed because they are where the proposed restaurant building is located. We asked the applicant to please determine whether or not the existing trees that are being removed are significant trees. If they are significant trees, then the trees must be replaced at the rate in the table BMC.17.81.120.C. The landscaping plans state that a total of 7 significant trees will be removed, making the required number of planted trees at 32. Again, there is no table showing the required number of planted trees and what will be provided, as a condition of approval please show the number of planted trees that will be provided in replacement of the significant trees (See condition “8”).
22. Along with perimeter and street frontage landscaping, there shall also be a type III buffer along the east property line to conceal from the freeway with a minimum buffer width of 10 feet and a physical screening of either a site obscuring fence or wall at least six feet in

height and in addition to any normally required perimeter landscaping, evergreen trees shall be provided at intervals of 15 feet or less. The trees required by this provision may be used to meet normally applicable tree planting requirements for perimeter landscaping (BMC.17.81.110.3). The plans depict that there will be a type III separation buffer to the east, but the plans do not show the required amount of trees and how many will be provided, nor does it show the buffer width being 10 feet along with a fence or wall of 6 feet. As a condition of approval, details will need to be provided showing the buffer width of 10 feet, the required amount of trees and the fencing or wall details (See condition “8”).

23. Under the MUC-2 code for drive through requirements it states “In addition to any other applicable landscaping and screening requirements, queuing lanes shall be screened from view using a landscaped earthen berm or a low masonry wall. The screening shall have a minimum height of three feet, as measured above the grade of the adjacent queuing lane and shall be consistent with the standards for Type II screening identified in Chapter 17.81 BMC” (BMC.17.50.070.4). The civil plans show that there will be a type II screening for the queuing lanes, and they will be using a masonry wall of 3 feet in height therefore complying with the code.
24. Low impact development (LID) techniques, such as rain-gardens, permeable pavements, and bio-retention, must be incorporated into the design of all new development unless demonstrated to be infeasible through an engineering analysis (BMC 17.70.135.C & 17.85.140.E). In addition, landscaping areas must be used, to the maximum extent possible, to treat, store, or infiltrate storm-water runoff. The application materials include a geotechnical evaluation. However, no information has been provided on the potential use of permeable pavement raingardens, bio-retention or other LID measures, the landscaping plans do not show how landscaped areas will be used to manage stormwater, and the geotechnical report does not address the feasibility of infiltration or LID features as required by code. In order to demonstrate code compliance this information must be included with the final plan (conditions “7” and “8”).
25. Parking lot landscaping is required for parking lots with 20 or more parking spaces and at least 15 square feet of landscaping shall be provided for each interior parking space (BMC.17.81.090). The plans had originally shown that there would be 90 proposed parking spaces which exceeded the required amount of spaces by 120 percent (BMC.17.85.060.B). Therefore, the City asked for a traffic and parking study showing that the 90 proposed parking spaces would be necessary for this project. In the parking memorandum we received dated January 24, 2025, it states there will be 75 proposed on-site parking stalls instead of the 90 and on the landscaping plans it shows around 40 interior spaces but on the table on the plans states there will be 67 interior spaces and shows that 1,005 square feet of parking lot landscaping is required and 4,574 square feet will be provided along with 11 parking lot trees required and 13 will be provided. Either way this exceeds the parking lot landscaping requirements, but these numbers reflect the parking spaces before the plans were revised. As a condition of approval, the table on the plans shall be revised

to show the correct amount of interior parking spaces along with the correct amount of parking lot landscaping (See condition “7”).

26. Under the City’s parking requirements, restaurants are only required to provide one parking space for every 200 square feet, the total square footage of the building is 4,986 sq feet, meaning approximately 25 spaces would be required for this use (17.85.060.A-1). The parking analysis memorandum that was sent in shows that 75 on-site parking stalls will be proposed. The City’s parking code (BMC 17.85.060.B) limits parking to a maximum of 120 percent of the total requirement. This limitation may be waived if a traffic and parking study is submitted showing the need for additional parking. The City received a parking analysis from Spenser Haynie with TENW. However, this report does not demonstrate, through factual and technical analysis, why additional parking is *needed*, which is what the code requires. Instead, the report simply says the parking is being provided be “based on the current site plan”, Chik-fil-a’s corporate design guidelines, and the average “supply” at other locations. These factors all focus on supply without addressing demand. City code requires a report parking study that demonstrates the “need” for additional parking and further requires that the report be “consistent with and integrated into” the traffic study for project. Consistent with these requirements, and the guidance provided to the applicant on December 30, 2024 (exhibit “9”), the parking analysis must be incorporated into the traffic study, and the parking analysis and trip generation calculations must use consistent numbers. Crucially, in order for the maximum parking limit to be waived, the applicant must show why additional parking spaces are needed by connecting trip generation and turnover rates. Data from other locations may be helpful, provided that relevant information, such as average and peak hour occupancy rates, is included in the report. In order to comply with parking limit imposed by BMC 17.85.060.B, the plans must either be revised to reduce the amount of parking to 25 spaces, or the traffic report must be revised to include a parking study demonstrating why the additional spaces are needed (See condition “8”).
27. New developments must also provide bicycle parking. For large (more than 1,000 square feet) eating and drinking establishments there shall be 4 required bicycle parking spaces (BMC 17.85.060.A-1). The plans show that there will be a bike rack for bicycle parking and comply with the code.
28. The City of Burlington requires that landscape irrigation be provided (BMC 17.81.060.D). The preliminary landscaping plan does not include an irrigation system and therefore complies with the code.
29. In accordance with BMC 17.81.110.A, all loading, storage, and outdoor service areas such as trash enclosures must be screened from view. Trash requires a type I buffer which includes a buffer width of five feet and a physical screening with either a solid site obscuring fence or wall that has a minimum height of six feet (BMC.17.81.110.1). The current plans show where the trash enclosure will be on the site and also show adequate

details of the trash enclosure and the buffer screening and show that it will be covered and connected to sewer, therefore complying with the code.

30. The maximum permitted building height in the MUC-2 zone is normally 45 feet. In the MUC-2 zone buildings may exceed this height, if the portions of the building exceeding the normal height limit are set back one foot for each foot of height the building exceeds 45 feet (BMC 17.50.090.E). The architectural plans submitted with the application include detailed elevation drawings showing that highest point of the proposed building will be almost 21 feet (exhibit “13”). The proposed development will comply with the building height regulations for the MUC-2 zone.
31. All outdoor lighting fixtures must be fully hooded, screened, and directed downwards so that the light source is not visible from the adjoining properties or the public right-of-way (BMC 17.85.115.G & 17.70.110.A). A lighting plan was included and shows that the fixture type will be pole top mounted and wall mounted, the manufacturer’s design, and the plans show where the lighting will be placed along with the height does not exceed more than 14 feet, therefore complying with the code.
32. Parking and circulation areas must incorporate LID measures such as permeable pavement, raingardens, and bio-retention (BMC 17.85.100 B & C). The plans do not show how LID measures have been incorporated into the design of parking and circulation areas. In order to address this requirement, the final plans must show how LID measures have been incorporated (conditions “7” and “8”).
33. The maximum impervious surface coverage limit for the MUC-2 zone is 80 percent (BMC 17.30.100.D). Impervious surfaces include buildings, conventional pavement, and compacted gravel. Permeable pavement, engineered pavers, grass grid, green-roofs, and open slotted decking may be included in impervious surface calculations at a rate of 50 percent (two square feet of permeable pavement equals one square foot of impervious surface coverage) (BMC 17.01.050). The plans had shown an impervious surface coverage of 81% which does not meet code. The applicant revised the plans to be 80 percent or under, however, it does not say anywhere what the new impervious surface calculation is. As a condition of approval, there shall be a table on the plans showing the impervious surface calculation (See condition “8”).
34. Conditional Use Permits must be consistent with all of the criteria enumerated in BMC 14A.05.080. For purposes of clarity the applicable criteria have been addressed individually below:
  - a. The use will have no more adverse effect on the health, safety or comfort of people living or working in the area, and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area, than would any use generally permitted in the district. Among matters to be considered are

traffic flow and control, access to and circulation within the property, off-street parking and loading, refuse and service areas, utilities, screening and buffering, signs, yards and other open spaces, height, bulk and location of structures, location of proposed open space uses, hours and manner of operation, and noise, lights, dust, odor, fumes and vibration.

*The applicant is proposing a drive-through restaurant building of 4,986 square feet with parking and two queueing lanes. The site is zoned MUC-2 which currently allows for drive-throughs. The areas to the west and south of the site are also zoned MUC-2 and to the South of the site there is an existing McDonald's drive-through. The area to the north of the site is zoned RA-2. The RA-2 zones allow lower density multiunit residential development, such as townhomes, duplexes, and small multiunit buildings. The property to the east of the site is owned by the City of Burlington and is zoned PFT-2. The PFT-2 zone allows public services and facilities, such as state highways, emergency services, and transit stops. Because the state highway is located adjacent to the site and there is also a McDonalds drive-through to the South of the site, the use will have similar impacts to other uses permitted in the surrounding area.*

- b. The proposal is in accordance with the goals, policies and objectives of the comprehensive plan

*The Burlington Comprehensive Plan includes a number of objectives, goals and policies relevant to the proposed development, including:*

*Lands Use Element, General Objectives:*

*“Based on regulations and policies in effect prior to the development the current comprehensive plan the City would not have had sufficient capacity to accommodate employment growth and economic development through the year 2036.”*

*“Absent changes to the Comprehensive Plan, the DCA shows that the City will not be able to accommodate projected employment growth through the year 2036” 2.4.2*

According to the comprehensive plan, the City of Burlington will not be able to accommodate the projected employment growth, and we are falling a little short on employment opportunities. By adding this proposed drive-through restaurant it would bring more employment opportunities to the City of Burlington.

*MUC Zone general objectives-*

*“The MUC designation is the City’s primary commercial land use designation. The goal of the MUC designation is to accommodate and promote a dense concentration of commercial, institutional, and residential uses. Uses in the MUC designation typically covers a large portion of the site, have high occupancy or employment densities, and generate significant customer traffic.” 2.5.4*

*“Examples of acceptable uses include, but are not limited to, retail, commercial recreation, large multiunit residential developments, eating and drinking establishments, health care facilities, and office buildings.”2.5.4.2*

The proposed development is located in an existing commercial area and is within walking distance of jobs, services, and residential housing. Utilities including public water, sewer, and fiber optic communications are available adjacent to the development site. The drive-through restaurant would also increase significant customer traffic, and the development would cover most of the site. In addition, the development site is located within the Western Gateway Development Area.

*Western Gateway Special Planning General Objectives:*

*“A growth area has been designated at the West entrance to the City along State Route 20. This area is intended to provide convenient services to surrounding residential areas and provide a location for traveler-oriented businesses such as gas stations, car washes, and hotels.” 2.7.3*

*“Create a dramatic entrance to the City that emphasizes a clear transition between the City and surrounding rural areas.” 2.7.3.1*

*“Provide convenient opportunities for shoppers and travelers to stop as entering or passing through Burlington.” 2.7.3.2*

*Provide convenience services to surrounding residential areas that would otherwise be cut off from the rest of the City by I-5.” 2.7.3.3*

Having a drive-through restaurant would provide as a traveler-oriented business and it also provides travelers a place to stop by as they are entering or leaving the City. The proposed drive-through could also contribute to the area’s role as a welcoming and recognizable entry point into the City. Its presence would help define the transition from rural surroundings into Burlington’s commercial district. The establishment would serve local residents, especially those living near the I-5 corridor who may have limited access to dining options. A restaurant in this location would enhance food accessibility for these communities, aligning

with the City’s goal of ensuring convenience for otherwise isolated neighborhoods.

- c. The proposal complies with all the requirements of this title (zoning code).

*As documented in this report the proposal complies with all applicable code requirements or can comply with all applicable code requirements through the application of reasonable conditions of approval.*

- d. The proposal can be constructed and maintained so as to be harmonious and appropriate in design, character, and appearance with the existing or intended character of the general vicinity and provides a high quality of development.

*Under the City’s revised zoning regulations, the proposed use will be permitted outright on the site and similar uses are permitted in the surrounding area. As such the use is consistent with the existing and intended character of the area.*

- e. The proposal will not adversely affect the public infrastructure.

*This proposal will have little or no impact on public infrastructure. Existing utilities are located in the street adjacent to the site, the development is located next door to the City’s public safety facilities and is within walking distance of jobs and commercial services thereby minimizing transportation impacts.*

### **SEPA Determination:**

#### Mitigated Determination of No-Significance (MDNS)

The lead agency for this proposal has determined that it does not have a probable significant impact on the environment subject to the mitigating conditions of approval identified below. An environmental impact statement (EIS) is not required under RCW 43.21C.0330(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. This MDNS was issued after using the optional DNS process in WAC 197-11-355. There will be no further comment period for this MDNS.

This SEPA MDNS may be appealed to the City of Burlington Hearing Examiner. Appeals must be filed within 14 days of the date of this determination. The date of this determination is March 7, 2025.

1. With the exception of the impacts identified below, all of the impacts associated with this proposal will be adequately mitigated through the application of Burlington Municipal Code requirements. Therefore, all construction, work, clearing, grading,

filling, excavation, and other development activities shall be in full compliance with applicable Burlington Municipal Code requirements and the conditions identified below under the “Permit Recommendation” heading.

2. If the proposed development includes outdoor lighting it could result in glare and light impacts, both on adjacent developments and the residents of proposed development. Therefore, if exterior lighting is provided it shall be directed downwards and screened, hooded, or optically focused so the light source is not visible beyond the property boundaries and direct light away from individual residential units. Manufacturer’s specifications shall be submitted for each type of exterior lighting fixture demonstrating compliance with this condition and documentation shall be provided demonstrating compliance with all applicable Washington State Energy Code requirements. All exterior lighting fixtures and outdoor lighting shall be consistent with the approved lighting plan. No final occupancy or final building permit inspection shall be granted until the exterior lighting has been inspected for consistency with the approved lighting plan.
3. In order to ensure stormwater impacts are mitigated to a level of non-significance the total impervious surface coverage of the proposed development shall not exceed 80 percent. For purposes of interpreting this condition the definition of “impervious surface” shall be the definition provided in Title 17 BMC.
4. All exterior lighting fixtures installed on the development site (including building mounted lights and free-standing lights), shall be consistent with the approved lighting plan on file with the Community Development Department. Changes to the approved exterior lighting fixtures, or the addition of light fixtures to the site must be authorized by the Community Development Department. All exterior light fixtures shall be directed downwards and fully hooded, screened, or optically focused so that the light source is not directly visible beyond the perimeter of the site;
  - a. No building permit shall be issued until documentation is provided demonstrating the proposed lighting plan complies with applicable Washington State Energy Code requirements.
  - b. All exterior lighting fixtures and outdoor lighting shall be consistent with the approved lighting plan. No final occupancy or final building permit inspection shall be granted until the exterior lighting has been inspected for consistency with the approved lighting plan.

**Permit Recommendation:**

The Community Development Department has reviewed the applicant’s proposal and determined that it can comply with the applicable Burlington Municipal Code requirements subject to the conditions of approval identified below. The Community Development Department hereby respectfully recommends the Hearing Examiner to approve Conditional Use Permit application CUP 2-24 *subject to* the following conditions of approval:

General Conditions:

1. This approval shall not be construed to authorize any development or site modifications beyond those described in the application and shown on the approved plans. The approved plans shall be the plans and other project documents attached to, or referenced in, this decision.
2. Except as otherwise required by the conditions of approval identified in this decision and the associated SEPA threshold determination, all work, construction, and development activities shall conform to the approved plans. The approved plans shall be the plans and other project documents attached to, or referenced in, this decision. Minor modifications necessary to implement any changes requested by the Building Official, Fire Marshall, or City Engineer are permitted when necessary to ensure compliance with established regulatory requirements.
3. This approval shall expire two years from the date of approval. The date of approval for this decision shall be the date the Hearing Examiner’s decision is signed.
4. This permit does not authorize the location, design, construction or installation of any signs. No signs may be installed unless authorized by a sign permit.
5. The property owner, developer, and all contractors shall be responsible for complying with all applicable laws and regulations pertaining to erosion control and water quality, including obtaining a Washington State Department of Ecology Construction Storm-Water General Permit. Any additional erosion control or construction management practices prescribed by the City Engineer or Building Official shall be immediately implemented.

Grading Permit and Site Development:

6. A grading permit is required prior to beginning any clearing, filling, excavation, building, construction, or other site development work.
7. Prior to the issuance of a grading permit civil engineering plans shall be submitted to, and reviewed by, the City Engineer for compliance with applicable stormwater, site development, and engineering requirements. A storm-water plan shall be included with the civil plans and the plans shall include LID measures. The civil engineering plans must include the following specific information:

- a. Vicinity map legal description, survey notes, sheet index, legend, list of contacts, and signature blocks.
- b. Details sheet depicting ADA compliant ramps, aprons, and sidewalks.
- c. Waterline plan and profile.
- d. Sanitary sewer plan and profile.
- e. Site grading and drainage plan.
- f. Waterline specifications.
- g. Fiber optic conduit and vaults along all street frontages, connecting to any adjacent fiber optic conduit and vaults, and connecting to each building.
- h. Provide a stormwater report and plans showing where and how LID techniques have been incorporated into the proposal.
- i. Update the table on the plans to show the correct amount of interior parking spaces along with the correct amount of parking lot landscaping.
- j. Enhanced pedestrian amenities shall be included as follows:
  - i. A sidewalk, with a minimum width of five feet, shall be provided along the western edge of the WSDOT access road. This sidewalk shall be connected to the east-west pedestrian path bisecting the parking lot and shall be extended to connect with any existing pedestrian access points on adjacent sites
  - ii. The southernmost pedestrian access point (extending from Nevitt Road along the southern edge of the building) shall be extended to east to connect with the sidewalk installed along the western edge of the WSDOT access road.
- k. The traffic report shall be revised to address inconsistencies between the report and the final plans, such as stating that the sidewalk along Nevitt road will be widened to 8 feet only and not 10 feet as it shows in the report currently.

8. No grading permit shall be approved or issued until a final landscaping plan has been submitted to, and approved by, the Community Development Department. The final landscaping plan shall be consistent with the following:
  - a. The landscaping plan shall demonstrate compliance with all applicable landscaping code requirements including but not limited to the requirements of this permit.
  - b. Perimeter landscaping strips must be provided along the north and south site boundaries. The perimeter landscaping strips shall be at least five feet wide and include at least one tree for every 30 linear feet.
  - c. Provide a calculation table stating the percentage of landscaping that is being proposed as well as the impervious surface coverage.
  - d. On the calculation table, provide the number of required street and perimeter trees.
  - e. Show dimensions for the 10-foot street frontage landscaping strip and the 5 foot in width perimeter landscaping strip.
  - f. Provide more details of the type III buffer to the east, must show that it is 10 feet in width along with the details of the 6-foot fence or wall and how many trees are required and will be provided.
  - g. Provide in the calculation table to number of trees that will be provided in replacement of the significant tree removals.
9. A demolition permit is required prior to demolishing any building or structure. No grading permit shall be issued until the approval has been obtained from the Northwest Clean Air Agency.
10. Written authorization from WSDOT shall be provided stating that the access road off of State Route 20 may be used for this project is needed in order for the grading permit to be issued. The authorization shall specifically address access rights, authorization to conduct construction activities, and long-term maintenance responsibilities.

Building and Occupancy Conditions:

11. No final occupancy or final building permit inspections shall be approved for any residential unit until documentation has been provided showing the finished floor

elevations of the unit is one foot or more above the base flood elevation. This documentation can be provided in the form of a letter from a licensed surveyor. This is a City of Burlington requirement and not a requirement of the National Flood Insurance Program. Therefore, formal FEMA flood elevation certificates are *not* required.

12. The landscape irrigation system and all required landscaping shall be installed prior to final occupancy approval. The landscaping and landscape irrigation system shall be consistent with the landscaping plan required by this decision.
13. All clearing, grading, storm-water improvements, and utilities shall be consistent with the civil engineering plans approved by the City Engineer and no final occupancy shall be granted until the civil improvements have been inspected by the City Engineer.
14. No final occupancy or final building permit inspection shall be approved until civil engineering “as-built” drawing have been submitted to, and approved by, the City Engineer. No as-built drawings will be approved until the City Engineer has inspected the site and verified compliance with the approved civil plans, the conditions of the approved grading permit, and the conditions of this permit. All infrastructure shown on the approved civil plans, including but not limited to fiber optic conduit and vaults, public and private street improvements, pedestrian access and crosswalk improvements, utilities, and storm-water management improvements.
15. The trash enclosure screening shall be installed prior to final occupancy approval.
16. Civil engineering “as-built” drawings shall be submitted to, and approved by, the City Engineer.
17. All fire and life safety requirements identified by the Building Official and Fire Marshal shall be fully addressed.
18. Building plans shall include design details for the proposed awnings. Awning design details must show how the awnings will be designed to establish a well-defined building wall at the maximum setback line, by including vertical supports and screening at the setback line.

**Appeals:**

Conditional Use Permits are type III decisions. The Hearing Examiner’s decision may be appealed in accordance with the applicable procedures identified in Title 14A of the Burlington Municipal Code. For information on appeal procedures please contact the Community Development Department.