



ITEM REPORT
PLANNING AND ZONING COMMISSION

Agenda Date: 9/9/2025
 Agenda Section: New Business

TO: Baxter Planning and Zoning Commission

FROM:

REQUEST: **PUBLIC HEARING.** Conditional Use Permits for a drive-through restaurant and joint access and Variance for the drive-through for development of a Chick-fil-A located at 7609 Excelsior Road (legally described as Lot 1, Block 1, Kohls Addition, Crow Wing County, Minnesota) (City file 2025-012)

APPLICANT: HR Green Inc.

ZONING: C-2 Regional Commercial

1. Application Request

The applicant is requesting approval of the following items for the roughly 2-acre site located at 7609 Excelsior Road:

- **Conditional Use Permits to allow:**
 - A restaurant drive through use
 - Amended joint access
- **Variance:**
 - To allow a drive through lane between a building and a public street

The subject property is currently developed with the Bills Gun Club building and parking lot. The applicant is proposing to redevelop the site, which would include demo of the building to allow development of a Chick-fil-A restaurant and drive through. The applicant is proposing to construct the restaurant building and most of the drive through lanes within the footprint of the existing building. The applicant is proposing minimal changes to the existing parking lot.

2. Context

Adjacent Land Use and Zoning

	Adjacent Land Use	Zoning
North	Excelsior Road	ROW
East	Commercial Parking	C-2, Regional Commercial
South	Kohls	C-2, Regional Commercial
West	State Highway 371	ROW

Characteristics of the Site

The subject property is fully developed and has little topography with existing landscape trees. There are no wetlands or floodplain on the site and the site is not located in the Shoreland Overlay District.

Utility Commission Review

The Utility Commission reviewed the application on September 3, 2025 and recommended approval, subject to the following:

- 1) Enter into a Stormwater Facilities Maintenance Agreement prior to issuing a building permit.
- 2) Enter into an Escrow Agreement prior to issuing a building permit.

The utilities commission did discuss another Chick-fil-A site and noted that the site was confusing to navigate and know which way you should go. The commission member encouraged ample signage to avoid circulation confusion for the site in Baxter.

3. Analysis of Request

Conditional Use Permit for a Drive-through

The applicant is requesting a conditional use permit to allow a drive-through for Chick-fil-A. The zoning ordinance states that drive through business is allowed subject to the following standards:

- The business shall be located on a site with direct access to a minor arterial street, collector, or service road.

Staff finds that the proposed drive-through site is located on Excelsior Road, which is a minor arterial road.

- Drive-Through Lanes: Drive-through or drive-in lanes are not allowed between the building and a lot line that faces a public street. This does not pertain to driveways.

Staff finds that the drive through lanes are proposed on three of four sides of the building (north, east and south sides). The drive through lanes on the east and south sides are compliant but the drive through lanes on the north side of the building do not comply with this ordinance requirement, and therefore, requires a variance, which is discussed later in this report.

- Drive-through facilities, including, but not limited to, the service windows and stacking spaces, shall be separated from residentially zoned or guided property by an arterial or collector street or shall be set back at least two hundred feet (200') from residentially zoned or guided property.

Staff finds that there is not a residentially zoned or guided property within 200 feet of the subject property.

- The public address or order system shall not be audible from any adjacent residentially zoned or guided property. Electronic speaker devices, if used, shall not be audible beyond the property being served and shall not be operated between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M., unless extended by the city council as part of the conditional use permit.

Staff has added a condition to the resolution for compliance with this standard.

- Adequate stacking distance shall be provided, which does not interfere with other driving areas, parking spaces, or sidewalks. Stacking spaces shall not interfere with parking spaces or traffic circulation.

Staff finds that due to the construction of two stacking lanes that are able to stage 40 vehicles, the stacking area proposed does not interfere with driving areas, parking spaces, or sidewalk. There is a chance that during peak times stacking could back up in front of adjacent parking to the south. However, with the business practice of staffing outside the building during peak times, that should limit potential conflict. Staff notes that the business should monitor drive through stacking to ensure that people in the adjacent parking don't get "parked in" during peak times.

- Businesses with two (2) or more drive-through lanes shall provide stacking space for at least six (6) vehicles per lane, as measured from and including the last pick up station, window, or the like.

The proposed drive-through has two lanes. One lane has 20 stacking stalls and the other has 20 stacking stalls.

- The applicant shall demonstrate that such use will not significantly lower the existing level of service on streets and intersections. The city may require a traffic study to be prepared.

Staff finds this commercial area was designed for high-traffic commercial use and traffic has been previously studied. Staff notes that a new traffic study was not required by staff.

- Screening shall be provided of automobile headlights in the drive-through lane to adjacent properties. Such screening shall be at least three feet (3') in height and fully opaque, consisting of a wall, fence, dense vegetation, berm, or grade change.

Staff finds that the applicant has proposed coniferous trees outside of the drive-through provide the required screening. A condition of approval has been added to the draft resolution that prior to issuance of a building permit city staff shall review and approve the landscape plan including final placement location of screen trees.

- A bypass lane shall be provided for each drive-through use, allowing cars to leave the drive-through lane from the stacking area.

Staff finds that the second drive through lane functions as the required bypass lane.

Conditional Use Permit Amendment for Joint Access

The applicant is requesting a conditional use permit to update the existing joint/cross-access between the subject property and the Kohl's lot to the south and to the west. The zoning ordinance permits the setback for parking and drive aisles to be reduced to zero to allow joint driveway and parking across lot lines with approval of a conditional use permit, provided that:

- Driveways and parking areas are designed to accommodate a safe traffic pattern
- Design requirements are met.
- An access master plan is submitted
- A cross-access easement be submitted for approval by the city attorney and recorded.

Staff notes that the attached plans for development serve as the master plan for joint access. Additionally, the joint access connection points on the shared property line are not changing. The CUP is to update easements as needed to reflect the new restraint use and new traffic pattern. Staff finds that the joint access meets the city's design requirements for joint use and would include a safe traffic pattern. Staff has added a condition to the approving resolution that the applicant shall submit any required amendments to existing private joint access easements as required by the City Attorney. Said amended easement shall be reviewed and approved by the City Attorney and recorded with Crow Wing County.

CUP Standards

Staff has also reviewed the request against the general CUP standards. Section 10-7-4 of the Zoning Ordinance defines the criteria for reviewing and processing a conditional use permit (CUP). Specifically:

- A. Excessive Burden: The use shall not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

The City finds that the drive-through business and joint access parking would not create an excessive burden on existing parks, schools, streets, and other public facilities because the use is existing and the surrounding road network has been designed to support the commercial development in the vicinity of the subject property.

- B. Compatibility: The use shall be compatible with adjacent land uses so that existing uses will not be depreciated in value and there will be no deterrence to development of vacant land.

The City finds that the subject property is currently developed with a commercial use and that drive-throughs and joint access are allowed conditional uses in the C-2 district and therefore, would not depreciate adjacent properties.

- C. Appearance: The use shall have an appearance that will not have an adverse affect (sic) upon adjacent properties.

The City finds that the drive-through and joint access would not have an adverse effect on adjacent properties because the adjacent property is all commercial use and that the applicant will provide screening for the drive through headlights to adjacent properties.

- D. Overall Needs: The use, in the opinion of the planning and zoning commission shall be reasonably related to the overall needs of the city and to the existing land use.

The City finds that drive-throughs and joint access are commonly a part of commercial development.

- E. Consistent With Purpose: The use shall be consistent with the purposes of this title and purposes of the zoning district in which the applicant intends to locate the proposed use.

The City finds that the drive-through use and joint access is consistent with the purposes of the zoning ordinance and the C-2 zoning district. Conditions have been added to the resolution addressing ordinance requirements for the conditional uses.

- F. Comprehensive Plan: The use shall not be in conflict with the comprehensive plan of the city.

The drive-through use and joint access would not conflict with the comprehensive plan of the city.

G. Traffic: The use will not cause traffic hazard or congestion.

With the conditions in the resolution, the proposed uses would not cause a traffic hazard or congestion.

H. Facilities: The use shall have adequate utilities, access roads, drainage, and necessary facilities.

The site has adequate utilities, access roads, drainage, and necessary facilities.

Variance

Drive-through Stacking Variance

The applicant is requesting a variance to the required stacking for the drive-through. The ordinance states that no portion of the drive through lane may be located between a the building and an a public street. The applicant is proposing a 40-car double drive through (20 cars per lane) on three sides of the restaurant. The drive through lanes are on the North, East and South sides of the building. The north frontage is the public street frontage of Excelsior Road, which requires the variance. Staff supports this variance request pursuant to the findings in this report.

Variance Standards

The variance standards are established by Minnesota Statute §462.357, Subd. 6.2. The burden of proof is on the applicant to show that the variance standards have been met. Specifically:

a) *That there are practical difficulties in complying with the Zoning Ordinance.*

Staff finds that there are practical difficulties in complying with the Zoning Ordinance. The owner is working within an existing commercial footprint, which limits the ability to design the site to avoid the variance. Additionally, the subject restaurant use requires significantly more stacking than a typical drive through use, which creates practical difficulties with complying with this ordinance requirement.

b) *That the conditions upon which a petition for a variation is based are unique to the parcel of land for which the variance is sought and were not created by the landowner.*

Staff finds that the conditions are unique to the parcel of the land and were not created by the property owner. This restaurant use is a proposed redevelopment of the existing commercial property.

c) *That the granting of the variation will not alter the essential character of the locality.*

The proposed variation would not alter the essential character of the locality. Adjacent lots are developed in with commercial use. Additionally, coniferous plantings are proposed between the drive through lane and the public street to improve aesthetics.

d) *The proposed variance would be in harmony with the general purposes and intent of the Ordinance.*

The variances would be in harmony with the general purposes and intent of the ordinance because the design supports the anticipated traffic flow from of the use and surrounding uses.

e) *The variance is consistent with the Comprehensive Plan.*

The variance would be consistent with the Comprehensive Plan because the property is guided as Commercial and the property is used for commercial purposes.

Site Plan

Parking

Restaurant uses require 1 parking stall for every 2.5 seats in the restaurant. The restaurant would have a total of 92 seats and would therefore, require 37 parking spaces. The applicant proposes to use the existing parking on site with minimal amendments. The site would have 105 parking stalls, providing a surplus of parking for the use.

4. Recommendation

Staff recommends approval of the conditional use permits and variance, subject to the findings and conditions in the attached resolution.

Attachments

1. Draft Resolution Approving Conditional Use Permits and Variance
2. Site Location Map
3. Site Details