



Land Use Petitions: SLUP-22-0003

Staff Recommendation Preparation: November 9, 2022

Planning Commission: November 17, 2022

Mayor and City Council, 1st Read: December 12, 2022

Mayor and City Council, 2nd Read: TBD

PROJECT LOCATION:	4435 Hugh Howell Road and 2239 Dillard Street
DISTRICT/LANDLOT(S):	18 th District, Land Lot 214
ACREAGE:	±2.33
EXISTING ZONING	DT-2 (Downtown Corridor Zone) and C-1 (Local Commercial)
EXISTING LAND USE	Former Restaurant and existing contractor's office
CURRENT FUTURE LAND USE DESIGNATION:	Downtown and Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	Chick-fil-A, Inc. c/o Jennifer Santelli
OWNER:	Chick-fil-A, Inc.
PROPOSED DEVELOPMENT:	Major modification to approved conditions of zoning for SLUP-21-0004.
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

BACKGROUND

In August of 2021, a Special Land Use Permit application with four concurrent variances was submitted to allow for the development of a Chick-fil-A at 4435 Hugh Howell Road (SLUP-21-0004, CV-21-0002, CV-21-0003, CV-21-0004, & CV-22-0006). The request went through several revisions and had a total of 12 public hearings, before being approved with twenty-one conditions on June 13, 2022 (O2021-10-22). Several of these public hearings were a result of deferrals in order to explore the closing of Rosser Terrace and the addition of a second parcel to the development proposal (2239 Dillard Street).

The approved project includes a new, ±4,978-square foot Chick-fil-A restaurant with two drive-through lanes (which allow room for 40 stacking spaces), one bypass lane, 62 parking spaces, as well as order and pick up canopies. The site will be accessed via two points, from Rosser Terrace and Dillard Street.

PROJECT DATA

The applicant is requesting a major modification to change condition #16 from SLUP-21-0004. The requested amendment specifically relates to obtaining a portion of property from 4445 Hugh Howell to dedicate as right-of-way and closing a curb cut along the same property frontage.

The applicant's request is to modify condition 16 as follows:

16. Owner/Developer shall construct a northbound right turn lane on Rosser Terrace at the intersection of Hugh Howell Road, subject to the approval of the City Engineer and the Georgia Department of Transportation. ~~Additional right-of-way dedication from back of curb of the right turn lane and the closure of the curb cut adjacent to the right turn lane shall be required.~~

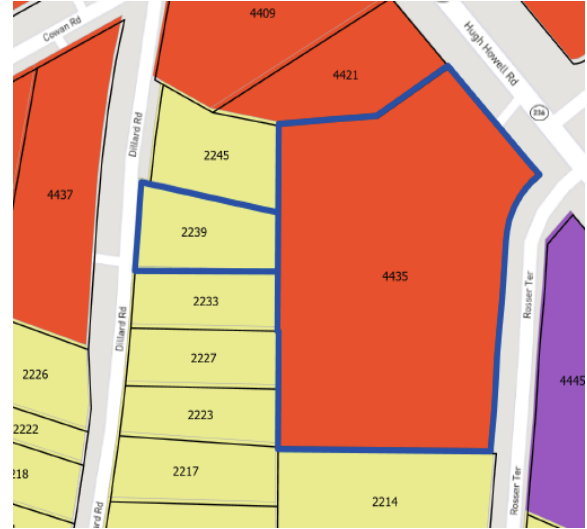
The approved site plan, dated May 6, 2022, showed the applicant acquiring approximately 641 square feet of land from 4445 Hugh Howell to then dedicate as right-of-way as part of the construction of the northbound right turn lane. The additional dedication would allow room for a sidewalk to be constructed behind the new northbound right turn lane, which the applicant also showed on the May 6, 2022 site plan. The applicant has stated they have been unable to come to an agreement with the owner of 4445 Hugh Howell that would allow them to fully comply with condition #16.

If the modification is approved, Chick-fil-A would not obtain property from the neighboring parcel (4445 Hugh Howell Road), would not close the northernmost curb cut along the western property line of the aforementioned property, and would not construct the sidewalk behind the right turn lane. However, Chick-fil-A would still construct the northbound right turn lane. The site plan submitted with this modification shows the right turn lane would have storage length of approximately 64' and a taper of approximately 50'. Although the proposed overall length of the right turn lane has increased, from 90' to 114', the added taper will result in one less car being able to queue in the dedicated right turn lane.

CHARACTER AREA (Future Land Use)

The subject parcels are located within the Downtown Character Area and Suburban Character Area on the future land use map.

The character areas do not speak to this specific condition; however, Goal 2 of the City of Tucker’s Comprehensive Plan is to improve transportation connections. The approved site plan has two access points along Dillard Street and Rosser Terrace. The access on Dillard will allow customers to travel to the light at Cowen and Hugh Howell in order to make safer left turns than having to turn left onto Hugh Howell from Rosser Terrace. For patrons leaving the site via Rosser Terrace, a proposed 50’ taper would be provided, in addition to a 64’ stacking area, better differentiating the travel lanes and providing less congestion and confusion.



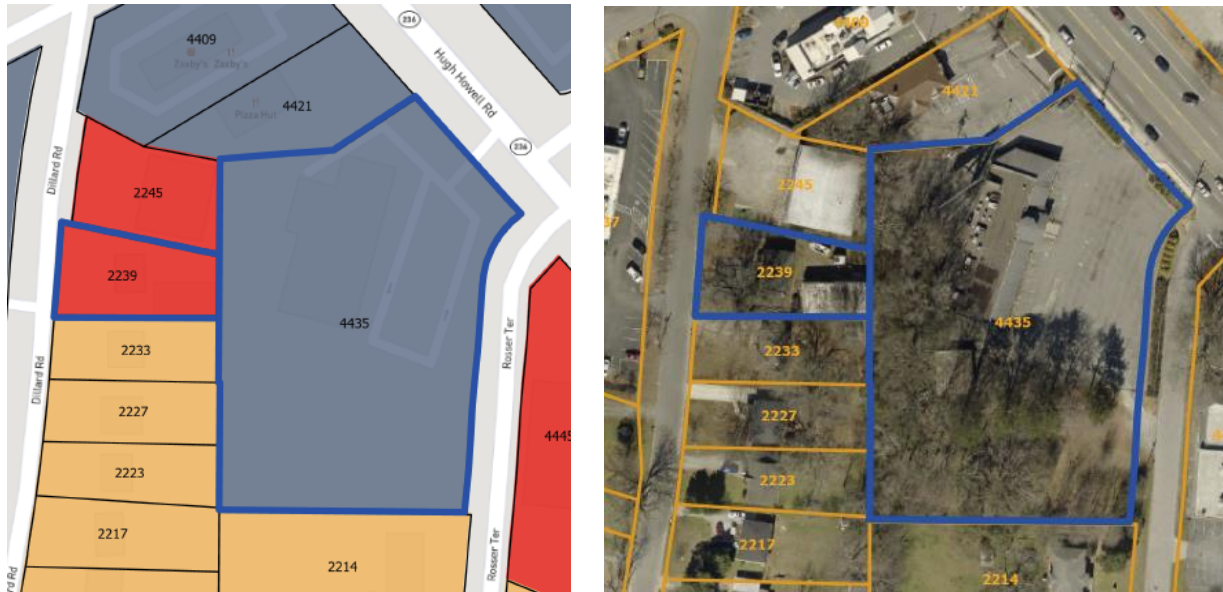
PUBLIC PARTICIPATION PLAN REPORT

Not required.

It should be noted that although a Public Participation meeting was not required, staff expanding the distance for the written notice requirement from 500’ to 1,000’ to inform residents of the proposed modification. This resulted in 155 letters being mailed.

Adjacent & Surrounding Properties	Zoning	Existing Land Use
Nearby: North	DT-2 (Downtown Corridor Zone); and C-1 (Local Commercial)	Tucker Plaza Shopping Center and commercial
Adjacent: Northwest	DT-2 (Downtown Corridor Zone)	Drive-through Zaxby’s and empty commercial space (formerly Pizza Hut)
Adjacent: South	R-75	Single-family detached homes
Adjacent: East (across Rosser Terrace)	C-1 (Local Commercial)	Commercial & drive-through Wendy’s
Adjacent: West and west across Dillard Street	R-75 (Residential Medium Lot – 75); and DT-2 (Downtown Corridor Zone)	residential single-family detached homes and Enzo’s Pizza

NEARBY/SURROUNDING LAND ANALYSIS & ZONING



Zoning and Aerial Exhibits showing surrounding land uses.

Major Modification/Special Land Use Permit SLUP-22-0003:

CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT

The process and regulations for modifications and changes to approved conditions of zoning are outlined in Sec. 46-1565 of the City of Tucker Zoning Ordinance. This section falls under Division 3: Zoning and Comprehensive Plan Amendments and Procedures. Minor changes can be handled administratively, but major changes require the full public hearing process. Criteria (standards and factors) for land use decisions are provided in Section 46-1594 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

Staff has reviewed the request with the criteria that is applicable to the requested modification:

Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

The project site is located at the southwestern intersection of Hugh Howell Road and Rosser Terrace and along Dillard Street. Hugh Howell, a major arterial road, has four travel lanes and a center turn lane. Rosser Terrace and Dillard Street are two-lane local roads. Due to the high volume of trips that Chick-fil-A generates, a deceleration lane into the development along Rosser Terrace and a northbound right-turn lane along Rosser Terrace were required. The applicant showed the acquisition of 641 square feet from 4445 Hugh Howell in order to construct the northbound right turn lane and install sidewalk behind the right turn lane. Dedication of

additional right-of-way is standard with this type of development to ensure the improvements are located entirely within the right-of-way.

Staff added the condition that the northernmost curb cut along the Rosser Terrace frontage of 4445 Hugh Howell be closed as it would be located along the right turn lane and could create negative traffic impacts from the competing traffic movements. However, the proximity to the stop sign at the intersection of Hugh Howell and the 25 mph speed limit along Rosser Terrace would limit that impact.

The applicant has stated they have been unable to come to an agreement with the owner of the neighboring property to obtain the 641 square feet and close the curb cut. However, the applicant still intends to construct the northbound right turn lane on Rosser Terrace to alleviate the high volume of traffic leaving the site.

Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

The subject property abuts residential lots along the southern and western property lines. In the neighborhood meeting for the first SLUP request, residents raised concerns regarding increased traffic queuing to turn onto Hugh Howell Road from Rosser Terrace. The applicant conducted a traffic study that found the addition of a right turn lane from northbound Rosser Terrace on to eastbound Hugh Howell Road would be necessary to help mitigate traffic.

Review of the current plan by the City Engineer confirmed that the removal of the right turn lane requirement could be detrimental to land uses along Rosser Terrace, but that the elimination of the other requirements of condition #16, although not ideal, would not create a major safety concern.

Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

The previous approval limits the development to one limited access driveway on Rosser Terrace (right in/left out) and one full access driveway on Dillard Street. The modification request would not impact this approved condition, or any other conditions regarding access in and out of the site.

CONCLUSION

The modification of condition #16, while not ideal, would not have a major impact to existing land uses along the access routes to the site and would not limit ingress and egress from the site as the northbound right turn lane, southbound deceleration lane, and limited access driveway (right in/left out) would still be constructed/required. Sufficient right-of-way currently exists along Rosser Terrace to build the northbound right turn lane without the sidewalk behind it. Therefore, Staff recommends **APPROVAL WITH CONDITIONS** of the requested SLUP modification.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends of **APPROVAL WITH CONDITIONS** of Land Use Petition **SLUP-22-0003**.

Changes from SLUP-21-0004 are shown in bold.

1. The property shall be developed in general conformance with the site plan submitted on **October 24, 2022**, with revisions to meet these conditions.
2. The drive through facility may be located between the building and both Rosser Terrace and Hugh Howell, as shown on the May 6, 2022 site plan (CV-21-0002).
3. A mix of trees, shrubs, and ground cover shall be planted in the landscape strip between the drive-through restaurant and both Hugh Howell Road and Rosser Terrace to screen the appearance of the drive-through lanes from the street.
4. The maximum building setback along Rosser Terrace shall be 66', as shown on the May 6, 2022 site plan (CV-21-0003).
5. Outdoor dining shall meet the requirements outlined in Section 46-998.
6. The drive-through establishment shall close no later than 10:00 p.m.
7. The Special Land Use Permit shall not be able to be transferred to another business.
8. Owner/ Developer shall provide direct pedestrian entrances from Hugh Howell Road and Rosser Terrace. The required pedestrian entrances must face the public street and provide ingress and egress.
9. Owner/Developer shall remove the existing billboard located on the northwestern portion of the property before/during the land development phase.
10. Inter-parcel access is not required (CV-21-0004).
11. The transitional buffer along the southern property line of 2239 Dillard Street shall be reduced from 50' to 24.4' (CV-22-0006). A 6' tall wood fence shall be installed on or near the southern property line.
12. Owner/Developer shall install a sidewalk along the drive aisle on the Dillard Street parcel, as shown on the May 6, 2022 site plan.
13. Owner/Developer shall install six foot (6') wide sidewalk with a five foot (5') wide landscape strip along the entire frontage of Rosser Terrace, Hugh Howell Road, and Dillard Street.
14. The development shall be limited to one (1) limited access driveway on Rosser Terrace (right in/left out) and one (1) full access driveway on Dillard Street. Curb cut locations are subject the

sight distance requirements and the approval of the City Engineer. Signage and a raised median at the Rosser Terrace curb cut to restrict right turns out shall be constructed.

15. Owner/Developer shall construct a southbound deceleration lane on Rosser Terrace at the new entrance, subject to the approval of the City Engineer.
16. Owner/Developer shall construct a northbound right turn lane on Rosser Terrace at the intersection of Hugh Howell Road, subject to the approval of the City Engineer and the Georgia Department of Transportation. ~~Additional right-of-way dedication from back of curb of the right turn lane and the closure of the curb cut adjacent to the right turn lane shall be required.~~
17. Owner/Developer shall dedicate at no cost to the City of Tucker such additional right-of-way as required to construct the above improvements and have a minimum of two feet (2') from the back of the future sidewalk.
18. Owner/Developer shall provide ADA compliant pedestrian connectivity between the sidewalks along both frontages and the building entrance.
19. Owner/Developer shall comply with Section 14-39 of the City of Tucker Code of Ordinances concerning tree protection and replacement. A minimum tree density of thirty (30) units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree replacement units as required in the ordinance.
20. Owner/Developer shall provide stormwater management in compliance with Tucker's Post Construction Stormwater Management Ordinance.
21. The Owner/Developer agrees to demolish the existing restaurant and ground sign at the 4340 Hugh Howell location within 90 days of the Certificate of Occupancy being granted for the new restaurant.