

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

Application No.: ZV/DOA-2021-01932
Application Name: Chick-fil-A at Western Plaza
Control No./Name: 1977-00048 (Western Plaza)
Applicant: Chick Fil A Inc.
Owners: Home Depot Usa Inc; Chick Fil A Inc; Miller Investments Of Miami LLC;
Discount Auto Parts Inc; First Coast Energy LLP; 441 Southern LLC;
McDonalds Corp
Agent: Interplan LLC - Stuart Anderson; Felipe Reyes; Kendra Lewis; Kiara Rios
Telephone No.: (407) 645-5008
Project Manager: Donna Adelsperger, Senior Site Planner

Title: a Type 2 Variance **Request:** to reduce the divider median width and to eliminate the tree within the landscape island on 0.97-acres

Title: a Development Order Amendment **Request:** to reconfigure the Site Plan and add building square footage on the 32.86 acres

Title: a Development Order Amendment **Request:** to add square footage and drive-through lanes for a Type 1 Restaurant on 0.97-acres

APPLICATION SUMMARY: The proposed requests are for the 32.86-acre Western Plaza development. The site was last approved by the Zoning Commission on December 2, 2016 for a Type 2 Variance to allow for a reduction in parking, and by the Board of County Commissioners on January 5, 2017 to allow for a Development Order Amendment and Requested Use to the previously approved Commercial Shopping plaza with a mix of uses. The request proposes to modify the site plan in order to reconfigure the development to add square footage, add drive-through lanes; reconfigure on-site traffic circulation, and parking for the Type 1 Restaurant Outparcel. The applicant is also requesting two Type 2 Variances to reduce the divider median width and eliminate trees in the divider median to the south of the Type 1 Restaurant in Building H.

The Preliminary Site Plan (PSP) indicates six commercial buildings with a total of 300,380 square feet. These buildings include a mix of commercial uses, including the two-Type 1 Restaurants with drive-through lanes (two and three lanes), two Type 1 Restaurants (no drive-through lanes); Retail Gas and Fuel Sales; Retail Sales; Dry Cleaners and a Neighborhood Vehicle Rental Facility. The site plan indicates 1,136 parking spaces with access from Southern Boulevard (U.S. 80) and U.S. 441.

SITE DATA:

Location:	Southeast corner of Southern Boulevard and SR 7/US 441
Property Control Number(s)	00-42-43-27-05-008-0213; 00-42-44-06-11-000-0011; 00-42-44-06-11-000-0012; 00-42-44-06-11-000-0013; 00-42-44-06-11-000-0014; 00-42-44-06-11-000-0015; 00-42-44-06-11-000-0016; 00-42-44-06-11-000-0017; 00-42-44-06-11-000-0018; 00-42-44-06-11-000-0019
Future Land Use Designation:	Commercial Low, with an underlying Industrial (CL/IND)
Zoning District:	Multiple Use Planned Development District (MUPD)
Total Acreage:	32.86 acres
Tier:	Urban / Suburban
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile	Royal Palm Beach, Wellington
Future Annexation Area	Greenacres, Royal Palm Beach, Wellington
BCC District	6, Commissioner Sara Baxter

RECOMMENDATION: Staff recommends approval of the requests subject to the Conditions of Approval as indicated in Exhibits C-1 through C-3.

ACTION BY THE ZONING COMMISSION (ZC): *Scheduled September 7, 2023*

PUBLIC COMMENT SUMMARY: At the time of publication, Staff had received no contacts from the public regarding this application.

PROJECT HISTORY:

Application No.	Request	Resolution	Approval Date
Z/SE-1977-00048	Official Zoning Map Amendment to allow a rezoning from the Agricultural District (AG) to the General Commercial (CG) Zoning District and Special Exception to allow a Planned Commercial Development Community Shopping center, Auto Service Station, Car Wash, Two Financial Institutions, Interim On-site Sewage Treatment Plan and Interim On-site Water Treatment Plant	R-1977-0483	04/28/1977
Z/DOA-1977-00048(A)	Official Zoning Map Amendment to allow a rezoning from the Agriculture Residential (AR) Zoning District in part and the General Commercial (CG) Zoning District (in part) to the General Commercial (CG) Zoning District entirely	R-1989-0440	03/14/1989
	Development Order Amendment to amend the Special Exception to expand the site plan for Western Plaza, a Planned Commercial Development, to delete the Interim On-Site Sewage Treatment Plant; to delete the On-Site Water Treatment Plant; to increase the land area by 4.7 acres; to increase building square footage; to redesign the site; and to modify Conditions of Approval.	R-1989-0441	
DOA-1977-00048(B)	Development Order Amendment to add square footage	R-1993-1362	10/28/1989
	Corrective resolution to Amend the Legal Description as part of approval granted under Resolution R-1993-1362	R-1995-0004	01/06/1995
DOA-1977-00048(C)	Development Order Amendment to amend Conditions of Approval	R-1994-0505	04/28/1994
DOA-1977-00048(D)	Withdrawn		
DOA-1977-00048(E)	Development Order Amendment to modify the site plan and building square footage	R-2003-0098	01/9/2003
PDD/DOA/R-2010-01219	Official Zoning Map Amendment to allow a rezoning from the General Commercial/Special Exception (CG/SE) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District	R-2011-0428	04/04/2011
	Development Order Amendment to reconfigure the Site Plan and add square footage. in the MUPD District	R-2011-0429	
	Requested Use for a Type 1 Restaurant in an MUPD Zoning District	R-2011-0430	
ZV-2012-01574	Type 2 Variance to allow a reduction in number of parking spaces	ZR-2012-0027	09/06/2012
ZV-2012--03107	Type 2 Variance to allow a reduction in number of parking spaces	ZR-2013-0003	02/06/2013
DOA-2013-00769	Development Order Amendment to reconfigure the site plan and to add square footage	R-2013-1519	11/01/2013
ZV/DOA/R-2015-02348	Type 2 Variance to allow a reduction in number of parking spaces	ZR-2016-0066	01/06/2017
	Development Order Amendment to reconfigure the Site Plan; add square footage and fueling stations; add a Requested Use; and, modify Conditions of Approval (Engineering),	R-2017-0001	01/18/2017
	Requested Use to allow a Convenience Store with Gas Sales	R-2017-0002	

TYPE II VARIANCE SUMMARY

ULDC Article	Required	Proposed	Variance
(V-1) 7.C.4.A Landscape Islands	Trees within median landscape island (south of Building H)	No trees in divider median (south of Building H)	Elimination of trees in divider median (south of Bldg H)
(V-2) 7.C.4.A Landscape Islands	10-foot wide (south of Building H)	3-foot wide (south side of Building H)	Reduction of 7-feet (south side of Bldg H)

FINDINGS: Type 2 Variances

When considering a Development Order application for a Type 2 Variance, the Zoning Commission shall consider Standards a through g listed under Article 2.B.7.E.6, Standards for Zoning or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Type 2 Variance that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

- a. ***Special conditions and circumstances exist that are peculiar to the parcel of land, building, or structure, that are not applicable to other parcels of land, structures, or buildings in the same district:***

YES V-1 and V-2: There are special conditions and circumstances the exist within the subject site. Due to the small size of the parcel the existing restaurant and the inability to obtain additional acreage from within the development to expand the proposed development of site is restricted with the redevelopment the Type 1 Restaurant. The divider median requirements for the site would use land area that would render restrictions preventing the proposed improvements which would aide in reducing on-site traffic conflicts within the exiting Plaza. Currently, the existing restaurant was designed with a single drive-through due to the increase in clientele additional lanes and the remodel and redesign is badly needed. The proposal will be able to accommodate three queuing lanes that will provide adequate circulation for the vehicles and further minimize the traffic impact to the internal circulation of the Plaza

- b. ***Special circumstances and conditions do not result from the actions of the Applicant:***

YES. V-1 and V-2: Due to the small size of the parcel large increase in clientele and the inability to obtain additional acreage from within the development the site is restricted with the redevelopment the Type 1 Restaurant. The existing restaurant was designed with a single drive-through lane and with the remodel and redesign of the outparcel will be able to accommodate three queuing lanes that will provide adequate circulation for the vehicles. While the project is compliant with Code under which it was originally approved, the constraints of not being able to acquire additional land for the amount of stacking required for this site is a special circumstance and condition that is not the result of the Applicant.

- c. ***Granting the Variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district:***

YES. V-1 and V-2: Granting of this variance does not confer any special privilege denied by the Comprehensive Plan and the ULDC to other parcels with the same Zoning. Other parcels with the same Zoning and site constraints have the ability to seek the same Variances. In this case the granting of the Variance will serve the overall Plaza's business as they will benefit from the propose improvement. The new layout will be able to hold more cars within their parcel which will result in a decrease in internal traffic congestion. Modifications to the landscaping code since the approval, have provided more restrictive requirements.

- d. ***Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship:***

YES. V-1 and V-2: A literal enforcement would deprive the applicant of rights commonly enjoyed by other developments with the MUPD Zoning. Due to the existing parcel size and the inability to acquire additional land within the MUPD the Applicant would not be able to re-develop the parcel to address the existing on-site traffic issues.

- e. ***Granting the Variance is the minimum Variance that will make possible the reasonable use of the parcel of land, building, or structure:***

YES. V-1 and V-2: The requested variances are the minimum to allow reasonable use of the property that will not create any adverse impacts on surrounding uses. The granting of the Variances will help to address on-site circulation patterns that are currently an issue due to the volume of customers by providing needed area to expand and will better serve the existing development.

- f. ***Grant the Variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code:***

YES. V-1 and V-2: The requested variance are consistent with the purposes goals, objectives and policies of the Plan and this Code. The volume of customers creates impacts on the current design, thus requiring a need for change. The variances will allow for a safer manner on-site traffic circulation thus creating a safe overall environment within the center.

- g. ***Granting the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare:***

YES. V-1 and V-2: The granting of the variances will not be injurious or detrimental to the public welfare or deviation from the original intent of the MUPD. In fact the granting pf the variances will allow for a safer manner on-site traffic circulation thus creating a safe overall environment within the center, and a benefit the public welfare.

FINDINGS:

Conditional Uses, Official Zoning Map Amendment to a PDD or TDD and Development Order Amendment:

When considering a Development Order application for a Rezoning to a PDD or a TDD, a Conditional Use, excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHF), or a Development Order Amendment, the BCC and ZC shall utilize the Standards a – h listed in Article 2.B.7.B, Standards. The Standards and Staff Analyses are indicated below. A Conditional Use, Rezoning to PDD or TDD, or Development Order Amendment that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

a. Consistency with the Plan – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

○ *Consistency with the Comprehensive Plan:* The proposed amendments are consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

○ *Intensity:* The maximum Floor Area Ratio (FAR) of 0.50 is allowed for a non-residential project with a Commercial Low (CL) Future Land Use designation in the Urban/Suburban Tier (1,381,723.2 sq ft or 31.72 ac x .50 = 690,861.6 sq ft maximum). The request for 300,380 sq ft equates to a FAR of approximately .21 (300,380 sq ft / 1,381,723.2 sq ft = 0.21).

○ *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The site is not located within any neighborhood plans, overlays, or plan study areas as identified in the Comprehensive Plan.

○ *Compatibility:* County Direction #4 establishes that “Land Use Compatibility” is one of the eighteen directions that are the basis for the Goals, Objectives and Policies of the Comprehensive Plan. The directive reads as follows: “*Land Use Compatibility. Ensure that the densities and intensities of land uses are not in conflict with those of surrounding areas, whether incorporated or unincorporated.*” Several policies within the Plan’s Future Land Use Element (FLUE) further address compatibility through the ULDC and development review process.

○ *Compatibility:* County Direction #4 establishes that “Land Use Compatibility” is one of the eighteen directions that are the basis for the Goals, Objectives and Policies of the Comprehensive Plan. The directive reads as follows: “*Land Use Compatibility. Ensure that the densities and intensities of land uses are not in conflict with those of surrounding areas, whether incorporated or unincorporated.*” Several policies within the Plan’s Future Land Use Element (FLUE) further address compatibility through the ULDC and development review process.

FLUE Policy 2.2-c establishes that the ULDC is consistent with the Plan, and that consistency shall “ensure compatibility with adjacent future land uses.” *Further, FLUE Policy 4.3-i indicates (in part) that “the Development Review process shall also consider the compatibility of the density or intensity of proposed development with adjacent future land uses.”* The Planning Division has reviewed the proposed development application and determined that the proposed modifications to the Development Orders are compatible with adjacent and surrounding future land uses.

b. Consistency with the Code - *The proposed amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.*

Overall MUPD DOA

○ *Code Enforcement:* The outparcel for the Type 1 Restaurant is not under any code violations, however, the Home Depot parcel received Code Violations on June 23, 2023. The active Code Violations does not have any impact nor will it impede the development of the outparcel.

○ *Property Development Regulations:* Under prior applications the overall site, as well as the Type 1 Restaurant outparcel, were reviewed and noted as complying with the minimum lot size, setbacks and building coverage for a Multiple Use Planned Development (MUPD) with a Commercial Low with underlying Industrial (CL/IND) Future Land Use Designation.

○ *Parking:* The overall development was approved using a minimum and maximum parking requirement. The overall site was granted prior variances to reduce parking from 1,201 spaces to 1,136 spaces. The proposed expansion of the Type1 Restaurant will not require additional parking as no additional seats are being added. Therefore no changes to the parking spaces is required

- *Landscape/Buffering:* The overall development has an existing 25-foot buffer along the north property line (Southern Blvd) and along the northern 1, 227 +/- feet of the west property line (State Road 7/US 41). The southern 558 feet +/- along the west property line (State Road 7/US 441) has a 20-foot Right-of-Way buffer with a 5-foot overlap of utility easements. No buffers were required along the east and south property line adjacent to the LWDD Canals.
- *Signs:* No changes are proposed with this request to the existing/approved signage for the development.

Type 1 Restaurant

Location Criteria. Staff previously determined that the Type 1 Restaurant was in compliance with Art. 4.B.2.C.33.f, Location Criteria. The expansion does not alter this determination.

- *Architectural Review:* The proposed expansion of the Type 1 Restaurant is subject to the Architectural Guidelines of Article 5.C of the ULDC. The expansion will need to be consistent with the approved elevations for the Type 1 Restaurant. The Applicant will be required to submit the proposed elevations at time of Building Permit
- *Landscape/Buffering:* The affected area has an 8 foot divider medians on the north property line of the outparcel, a 3 foot divider median to the south of the queuing lane, an 7.5 foot divider median along the eastern outparcel boundary next to the drive aisle subject to the variance request note above; and a 20 foot Right of Way buffer along the west property line with a 5 foot overlap of utility easements in the 20 foot buffer. No other buffer changes are requested or proposed with this request.

- c. Compatibility with Surrounding Uses – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.***

The proposed amendments are is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development. The site is approved for a Type 1 Restaurant with one drive-through lane, however the Applicant states that the volume of customers and the internal business operations have necessitate the need for the change.. The re-design of the project does not alter the use and still consistent and compatible with other uses within the Shopping Center. With the volume of customers for the Type 1 Restaurant there has been an impact to the remaining development and more specifically the queuing of the vehicles is hindering the on-site circulation of the center. The redesign of circulation for the Type 1 Restaurant outparcel, will aid in improving the on-site circulation of the Shopping Center as the addition of two drive-through lanes will allow for vehicles to circulate through the outparcel in a more functioning manor.

- d. Design Minimizes Adverse Impact – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.***

The redesign of the existing use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands. The redesign of the on-site circulation for the Type 1 Restaurant will address current impacts to the site for the queuing issues for this restaurant. The expansion of the Type 1 Restaurant will be compatible with the existing architecture and character of the surrounding area.

- e. Design Minimizes Environmental Impact – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.***

- *Vegetation Protection:* The application request does not impact native vegetation.
- *Wellfield Protection Zone:* This property is not located within Wellfield Protection Zone.
- *Irrigation Conservation Concerns And Surface Water:* All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Palm Beach County Mandatory Year-Round Landscape Irrigation Conservation Measures Ordinance, Ordinance No. 2022-007. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93-15.
- *Environmental Impacts:* There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

- f. **Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

The Property is located in an active area adjacent to a major thoroughfare with multiple commercial uses nearby. The proposed use was previously determined to result in a logical, orderly and timely development pattern. The proposed expansion of the existing Type 1 Restaurant and the reconfiguration does not altered the use and will provide customers with a better service experience.

- g. **Adequate Public Facilities** – *The proposed amendment complies with Art. 2.F, Concurrency (Adequate Public Facility Standards).*

ENGINEERING COMMENTS:

The proposed minor modification to the existing restaurant building is expected to generate additional 57 net daily trips, additional five net AM peak trip, and additional four net PM peak hour trips. The build out of the project is assumed to be by 2026. The major change to the existing project will be in regards to the queue and circulation within the restaurant site itself to make the flow of traffic better. A survey of few existing Chick-Fil-A sites in Palm Beach County showed an 85th percentile queue of 25 vehicles. This site is providing 30 queuing spaces.

The minor increase in trips as a result of the above modifications will have an insignificant impact on the area roadways. It should be noted that the main entrance to the shopping plaza where this restaurant is located is currently being modified by converting the existing restricted median opening on SR-7 to a full, signalized intersection, which will help in traffic movements to and from the plaza. Those improvements are being done by a different developer on the west side of SR-7, located in the Village of Royal Palm Beach.

ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)

Traffic volumes are in vehicles per hour

Segment: SR-7 from Forest Hill Blvd to Southern Blvd

Existing count: Northbound=2609, Southbound=2725

Background growth: Northbound=420, Southbound=479

Project Trips: Northbound=1, Southbound=1

Total Traffic: Northbound=3030, Southbound=3205

Present laneage: 4 in each direction

Assured laneage: 4 in each direction

LOS "D" capacity: 3940

Projected level of service: LOS D or better in both directions

DRAINAGE DISTRICT:

The subject site is within the boundaries of the Lake Worth Drainage District. The Applicant's engineer states: *"that the existing development runoff is directed to on-site water management areas by means of inlets and storm sewer. The run-off from this outparcel leaves through concrete pipes that discharges into an existing wet detention pond on the south side of Western Plaza and then discharges into the Lake Worth Drainage District E-1 Canal. An existing Restrictive Covenants and Easement Agreement (ORB 24936, Page 496) between Chick-Fil-A and Home Depot allows for this outparcel to utilize the Home Depot retention pond for drainage purposes."*(see Exhibit F)

PALM BEACH COUNTY HEALTH DEPARTMENT: This project has met the requirements of the Florida Department of Health.

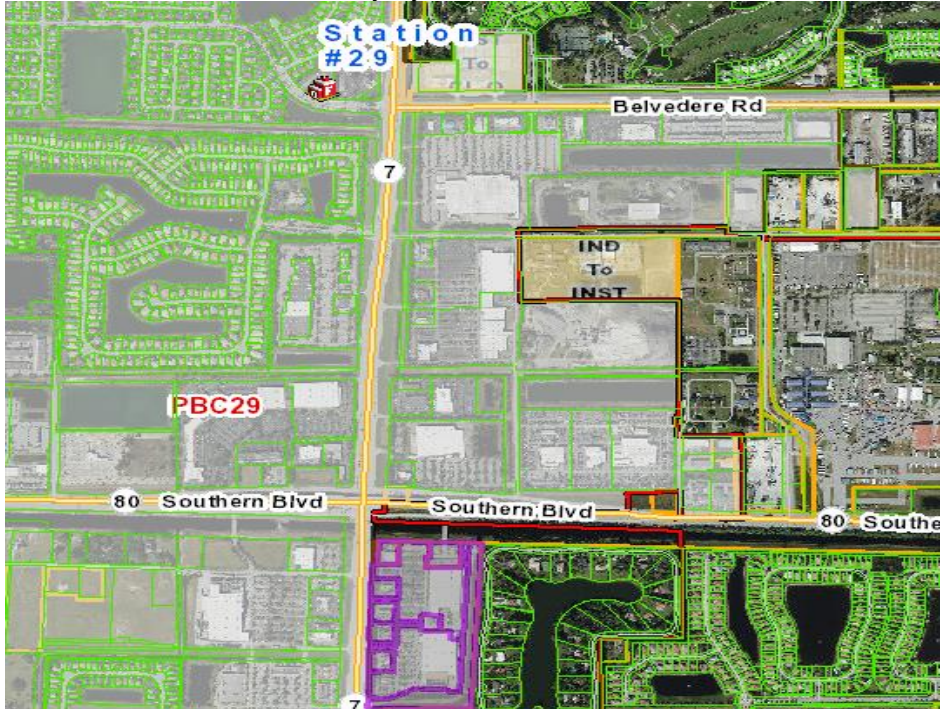
WATER AND WASTEWATER PROVIDER:

The Water and Wastewater provider is Palm Beach County Water Utilities. The site has an existing Restrictive Covenants and Easement Agreement (ORB 24936, Page 496) between Chick-Fil-A and Home Depot allows for this outparcel to connect to the existing sanitary sewer and domestic water lines. The Applicant shall coordinate with Palm Beach County Water Utilities to determine if any new permits are required with the proposed addition to the store.

SCHOOL IMPACTS: The School Board has no comment regarding this non-residential application.

PARKS AND RECREATION: This is a non-residential project, therefore the Parks and Recreation Department ULDC standards do not apply.

FIRE PROTECTION: Staff has reviewed this application and have no comment. The subject site is within the service boundaries of Palm Beach County by Fire Rescue Station #29.



h. Changed Conditions or Circumstances – *There are demonstrated changed site conditions or circumstances provided by the Applicant’s Justification Statement that necessitate the amendment.*

There are demonstrated changed conditions or circumstances, based on the Applicant’s Justification Statement. They state that over the past several years, the Type 1 Restaurant has seen exponential growth in clientele, particularly in drive-through lanes. Because of this success, the company has carefully and strategically designed a safe procedure to efficiently move customers through the drive-through with the use of employees taking onsite orders directly at the car windows and deliver meals to cars window so that multiple vehicles can be served at a time. Approval of this request will allow better function of the current operation as the canopies will protect the team members and better facilitate the efficient movement of cars through the drive-through.

CONCLUSION: Staff has evaluated the standards listed under Article 2.B. determined that there is a balance between the need for change and the potential impacts generated by Western Plaza Development. Therefore, Staff is recommending approval of the requests subject to the Conditions of Approval as indicated in Exhibit C-1, C-2, and C-3.

CONDITIONS OF APPROVAL

EXHIBIT C-1

Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Preliminary Site Plan is dated July 14, 2023. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Zoning Commission. (ONGOING: ZONING - Zoning)

VARIANCE

1. Prior to the submittal for Final Approval by the Development Review Officer, the approved Variance(s) and any associated Conditions of Approval shall be shown on the Site Plan for Building H. (DRO/ONGOING: ZONING - Zoning)

2. The Development Order for this Variance shall be tied to the Time Limitations of the Development Order for ZV/DOA-2021-01932. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)

3. At time of application for a Building Permit for Building H modification, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPM/ONGOING: BUILDING DIVISION - Zoning)

COMPLIANCE

1. In Granting this Approval, the Zoning Commission relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Zoning Commission for review under the compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other Permit, License or Approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or,
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other Zoning Approval; and/or,
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of Conditions reasonably related to the failure to comply with existing Conditions; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

CONDITIONS OF APPROVAL

EXHIBIT C-2

Development Order Amendment – Overall Development

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2017-0001, Control No.1977-00048, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2013-1519(Control 1977-00048), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2017-0001 (Control 1977-00048), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2017-1, Control No.1977-00048, which currently states:

The approved Preliminary Site Plan is dated August 08, 2016. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission.

Is hereby amended to read:

The approved Preliminary Site Plan is dated July 14, 2023. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

3. Prior to Site Plan Review Committee certification, the petitioner shall submit a Unity of Control for review and approval by the Zoning Division and the County Attorney. Prior to the issuance of the first building permit, the petitioner shall record the Unity of Control.(DRO: ZONING - County Attorney) [Note: COMPLETED] (Previous ALL PETITIONS Condition 3 of Resolution R-2017-0001, Control No.1977-00048)

4. Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to provide a minimum of twenty-five (25) foot wide aisle along the rear parking area of the proposed Home Depot store. Terminal islands shall be provided for all parking spaces. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous ALL PETITIONS Condition 4 of Resolution R-2017-0001, Control No.1977-00048)

5. The proposed landscaping and signs for the redevelopment portion of the site shall comply with the Village of Royal Palm Beach Code, unless the County's requirements (Conditions of Approval) exceed the Village code. Prior to final DRC certification of the site plan, the petitioner shall obtain written confirmation from the Village of Royal Palm Beach that the proposed landscaping and signage in the affected area are consistent with the Village code. (DRO/ONGOING: VILLAGE OF ROYAL PALM BEACH - Zoning) [Note: COMPLETED] (Previous ALL PETITIONS Condition 5 of Resolution R-2017-0001, Control No.1977-00048)

6. Resolution No. R-77-483, adopted April 28, 1977 is hereby repealed. (ONGOING: ZONING - Zoning) (Previous ALL PETITIONS Condition 6 of Resolution R-2017-0001, Control No.1977-00048)

ARCHITECTURAL REVIEW

1. All delivery and/or loading areas shall be screened from view by an eight- (8) foot high wing wall consistent with the color and character of the principle structure. This condition is applicable to the new Home Depot store only.: (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2017-0001, Control No.1977-00048)

2. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2017-0001, Control No.1977-00048)

ENGINEERING

1. Prior to site plan certification, the Property Owner shall demonstrate, in a manner and form acceptable to the County Attorney, its legal right to discharge into the existing lake within the Westwood subdivision east and south of the subject property. (DRO: COUNTY ATTORNEY - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2017-0001, Control No.1977-00048)

2. Prior to issuance of any building permits, the Property Owner shall fund up to \$7551.85 plus all expenses necessary for the installation of an aeration system in the existing lake within the Westwood Subdivision. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2017-0001, Control No.1977-00048)

3. Property Owner shall construct at the intersections of State Road 7 and the project's south and the north entrances:

- a. A right turn lane south approach shall be constructed prior to issuance of a Certificate of Occupancy, unless a permit from the Florida Department of Transportation for any portion of Engineering Condition No. 4 cannot be obtained in which case this portion of the condition shall not be enforced, subject to review by the County Engineer. (BLDGPM/CO: MONITORING - Engineering) [Note: COMPLETED]
- b. Signalization, if warranted, as determined by the County Engineer and approved by the Florida Department of Transportation. [Note: DELETED] (FDOT did not allow signal) [Note: COMPLETED]
- c. Any right-of-way required for the construction of these improvements shall be funded entirely by the Property Owner. [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2017-0001, Control No.1977-00048)

4. The Property Owner shall construct at the project's entrance road and State Road 80 concurrent with on site paving and drainage improvements.

- a. left turn lane, east approach
- b. right turn lane, west approach
- c. signalization, if warranted, as determined by the County Engineer and approved by the Florida Department of Transportation.

Any right-of-way required for this construction shall be funded in its entirety by the Property Owner. Should any of these turn lanes not be permitted by the Florida Department of Transportation, then that portion of the condition shall not be enforced, subject to concurrent review by the County Engineer. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2017-0001, Control No.1977-00048)

5. LANDSCAPE WITHIN THE MEDIAN OF STATE ROADS

The Property Owner shall design, install and perpetually maintain the median landscaping within the Median of SR 7. This landscaping and irrigation shall strictly conform with the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Exceptions for additional landscaping beyond OTIS require Board of County Commissioners approval. Sites with additional landscaping shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County.

- a. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first Building Permit. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]
- b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPM/CO: MONITORING - Engineering) [Note: COMPLETED]
- c. At the Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner-installed landscaping, payment for the maintenance may be provided to the County. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. In the event that the County installs trees, irrigation, and sod under its OTIS program along this project's frontage prior to the Property Owner installing this landscaping and irrigation, then the option for the Property Owner to install and maintain shall no longer be available without Board of County Commissioners approval, and the Property Owner shall contribute to the County's beautification program, as outlined in the second part of this condition, as follows:

Alternately, at the option of the Property Owner, prior to the issuance of a Building Permit, the Property Owner shall make a contribution to the County's Only Trees, Irrigation and Sod (OTIS) unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage length along SR 7. The payment shall be in the amount and manner that complies with the schedule for such payments, as it currently exists, or from time to time may be amended.

NOTE: Payments under this program do not guarantee the installation of landscaping and irrigation along this project's frontage during any particular time frame. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2017-0001, Control No.1977-00048)

6. Prior to issuance of a building permit the Property Owner shall convey a temporary roadway construction easement along State Road 7 to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2017-0001, Control No.1977-00048)

7. Previous ENGINEERING Condition 7 of Resolution R-2017-0001, Control No.1977-00048, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2017. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2026. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

8. The Property Owner shall either:

i. Construct a south approach U-turn lane and new directional median opening on SR 7 in the vicinity of Acme Road or as approved by FDOT. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. Or

ii. Make a payment pursuant to Article 12.B.2.F.1 to the Palm Beach County Board of County Commissioners in an amount as determined by the County Engineer for the cost to design and construct the above turn lane improvement. The improvements will then be constructed as part of the County's scheduled road construction project at the intersection of SR 80 and SR 7.

Design and construction costs associated with this improvement expended pursuant to Part i above or the payment made pursuant to part ii above shall be road impact fee creditable.

a. Permits required from FDOT for this construction shall be obtained or payment shall be made pursuant to Part ii above prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

b. If Option i is chosen, construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 8 of Resolution R-2017-0001, Control No.1977-00048)

9. Prior to issuance of the first building permit for the Chick-Fil-A, the Property Owner shall create the proposed Chick-Fil-A parcel as a lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2017-0001, Control No.1977-00048)

LANDSCAPE - GENERAL-LANDSCAPE - GENERAL-STANDARD (FOR OVERALL SITE, EXCEPT HOME DEPOT)

1. Simultaneously with application submittal to the Site Plan Review Committee, the petitioner shall submit an alternative landscape betterment plan for the landscape buffers along the eastern property line. This alternative landscape betterment plan shall include the landscape plans for the western buffer of the Westwoods Planned Unit Development (Zoning Petition No. 77-47). The alternative landscape betterment plan buffer shall equal or exceed thirty-five (35) feet and shall receive landscape treatment meeting the requirements of Section 500.35.E of the Landscape Code. This plan shall be subject to approval by the Zoning Division. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2017-0001, Control No.1977-00048)

2. Prior to the issuance of a building permit, the developer shall submit a copy of the approved alternative landscape betterment plan which meets or exceeds the requirements stated in Condition No. 12 above. No Certificate of Occupancy shall be issued until the landscape plan has been installed and received approval from the Zoning Division. (CO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2017-0001, Control No.1977-00048)

3. All trees required to be planted on the entire site shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet.
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (BLDGPM/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2017-0001, Control No.1977-00048)

LANDSCAPE - GENERAL-LANDSCAPE - GENERAL-LANDSCAPING STANDARD FOR HOME DEPOT, AFFECTED AREA

4. Fifty-percent (50%) of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet;
- b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
- c. Canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length;
- d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDGPM/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 4 of Resolution R-2017-0001, Control No.1977-00048)

5. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:

- a. Palm heights: twelve (12) feet clear trunk;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDGPM/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 5 of Resolution R-2017-0001, Control No.1977-00048)

6. All shrub or hedge material shall be planted in overlapping, continuous masses, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights:

- a. eighteen (18) to twenty-four (24) inches groundcover and small shrub;
- b. twenty-four (24) to thirty-six (36) inches medium shrub;
- c. forty-eight (48) to seventy-two (72) inches large shrub; and,
- d. these heights shall be continuously maintained to achieve the hierarchical effect. This condition does not apply to the five (5) foot wide buffer. (BLDGPM/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 6 of Resolution R-2017-0001, Control No.1977-00048)

7. All trees and palms material shall be planted in a meandering and naturalistic pattern. (BLDGPM/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 7 of Resolution R-2017-0001, Control No.1977-00048)

8. A group of three (3) or more palm or pine trees may not supersede the requirement for canopy tree in that location, unless specified herein. (BLDGPM/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 8 of Resolution R-2017-0001, Control No.1977-00048)

LANDSCAPE - GENERAL-LANDSCAPE - INTERIOR-HOME DEPOT - AFFECTED AREA ONLY

9. The minimum width of the landscaping median within the parking lot of the affected area shall be ten (10) feet including curbs, and shall consist of the following:

- a. one (1) canopy tree and appropriate ground cover shall be planted for each twenty-five (25) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center.
- b. shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. Shrubs may be exempted in areas where fire hydrants or any above or underground utilities are located. (BLDGPMTO/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 9 of Resolution R-2017-0001, Control No.1977-00048)

10. Foundation planting or grade level planters for the existing (Retail A) and the new Home Depot buildings shall be provided along the front and side facades to consist of the following:

- a. The minimum width of the required landscape areas shall be five (5) feet on the north and south sides of each building. Foundation planting shall only be applicable for the south side of Retail A. The minimum width of the required landscape areas shall be eight (8) feet on the west faade of each building;
- b. The length of the required landscaped areas shall be no less than fifty (50) percent of the total length of the north and south sides of each structure; The length of the required landscaped areas for the west faade shall be no less than forty (40) percent of the total length of the structure; and
- c. Landscape areas shall be planted with a minimum equivalent of one tree or palm for each twenty (20) linear foot of building facade and appropriate shrub or ground cover. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 10 of Resolution R-2017-0001, Control No.1977-00048)

LANDSCAPE - GENERAL

11. Landscaping along the (interior) sides of the existing concrete walls, which are located along the south and east buffers, shall consist of the following:

- a.one (1) canopy tree planted for each twenty (20) feet of the property line;
- b.one (1) vine (ficus pumila or similar specie) planted at five (5) feet on center; and
- c. tree requirements may be exempted in areas where the existing landscape strip is below five (5) feet in width.
(BLDGPMTO/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 11 of Resolution R-2017-0001, Control No.1977-00048)

12. Landscaping along the east and west portions of the existing detention area shall consist of the following, (planting requirements for each area):

- a.minimum planting area for each portion - 3,000 sq. ft.
- b. a minimum of five (5) canopy trees;
- c. a minimum of five (5) flowering trees; and,
- d. a minimum of one (1) shrub per fifteen (15) sq. ft. of the planting area. (BLDGPMTO/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 12 of Resolution R-2017-0001, Control No.1977-00048)

13. . Landscaping along divider medians along both sides of the middle access driveway at SR7/US 441 shall be landscaped with the following:

- a. a minimum of two (2) sets of trellis/shaded structure shall be provided for the landscape divider medians. Each structure shall have a minimum of six (6) feet in width and eighty (80) feet in length. Vines shall be planted adjacent to each structure;
- b. a minimum of four (4) foot wide pedestrian walkway paved with decorative pavers shall be provided under each set of trellis;
- c. one shrub for each two (2) linear feet of the length of each median. Shrub shall be a minimum height of eighteen (18) inches at installation, and shall be maintained at a maximum height of thirty (30) inches; and,
- d.prior to final DRC certification of the site plan, the petitioner shall revise the site plan to reflect the locations of these required trellis /shaded structures pursuant to Condition I.5.a. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 13 of Resolution R-2017-0001, Control No.1977-00048)

14. . Landscaping for the divider median in the middle access driveway at SR7/US 441 shall consist of the following:

- a. one (1) flowering or canopy tree for each twenty-five (25) linear feet of the median.
- b. one (1) Royal palm for each thirty-five (35) linear feet of the median; and,
- c. a continuous hedge between all trees within the median where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (BLDGPMPT/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 14 of Resolution R-2017-0001, Control No.1977-00048)

15. Landscaping for terminal islands in the parking area shall consist of the following:

- a. one (1) canopy trees for each ten (10) linear feet of the island; and,
- b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (BLDGPMPT/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 15 of Resolution R-2017-0001, Control No.1977-00048)

16. Landscaping at the base of the existing (Home Depot) sign along Southern Boulevard shall consist of the following:

- a.minimum planting area for each portion- 600 sq. ft.;
- b.a minimum of five (5) flowering trees; and,
- c.a minimum of one (1) shrub per fifteen (15) sq. ft. of the planting area. (BLDGPMPT/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 16 of Resolution R-2017-0001, Control No.1977-00048)

LANDSCAPE - GENERAL-LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

17. To mitigate compatibility with adjacent residential, landscaping and buffering along the east property line shall be upgraded to include:

- a. A minimum fifteen (15) foot wide landscape buffer strip free and clear of all utility easements or other encumbrances that may impede the required landscaping; and,
- b.One (1) native canopy tree planted every twenty (20) feet on center. (BLDGPMPT/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 17 of Resolution R-2017-0001, Control No.1977-00048)

18. Prior to November 1, 1994, the petitioner shall pay up to \$10,000 of invoices upon presentation by the Westwood Property Owners Association (WPOA) for landscaping along the property line abutting the existing shopping center. The petitioner shall be relieved of any portion of this responsibility not installed by the WPOA prior to November 1, 1994. (ONGOING: MONITORING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 18 of Resolution R-2017-0001, Control No.1977-00048)

LANDSCAPING ALONG THE WEST PROPERTY LINE-LANDSCAPING ALONG THE WEST PROPERTY LINE (FRONTAGE OF SR7/US441, HOME DEPOT - AFFECTED AREA ONLY)

19. Landscaping and buffering along the west property line shall be upgraded to include:
- a. a minimum twenty (20) foot wide landscape buffer strip (along the south 860 feet of the west property line);
 - b. one (1) canopy tree planted for each thirty (30) linear feet of the property line;
 - c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - d. one (1) flowering tree planted for each thirty (30) linear feet of the property line;
 - e. one small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
 - f. one medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation.
 - g. one large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (ONGOING: ZONING - Zoning) (Previous LANDSCAPING ALONG THE WEST PROPERTY LINE Condition 1 of Resolution R-2003-98, Control No.1977-00048)

LIGHTING-LIGHTING-LIGHTING HOME DEPOT - AFFECTED AREA ONLY

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (ONGOING: BUILDING DIVISION - Code Enforcement) (Previous LIGHTING Condition 1 of Resolution R-2017-0001, Control No.1977-00048)

LIGHTING-SITE

2. All outdoor, freestanding lighting fixtures shall not exceed thirty (30) feet in height measured from finished grade to highest point. (BLDGPMT: BUILDING DIVISION - Zoning) (Previous LIGHTING Condition 2 of Resolution R-2017-0001, Control No.1977-00048)

3. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning) (Previous LIGHTING Condition 3 of Resolution R-2017-0001, Control No.1977-00048)

PLANNING

1. Prior to final Development Review Certification, the site plan shall be revised to include notations indicating the existing or proposed/future location of sidewalks along State Road 7 and Southern Boulevard. (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 1 of Resolution R-2017-0001, Control No.1977-00048)

SIGNS

1. No off-premise signs shall be permitted on site (ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 1 of Resolution R-2017-0001, Control No.1977-00048)

2. The existing freestanding point of purchase (WalMart) sign located on SR7/US441 shall be replaced and, shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point twenty-five (25) feet;
- b. maximum sign face area per side one hundred (100) square feet;
- c. maximum number of signs one (1) sign;
- d. location within fifty (50) feet of the central access point of the MUPD;
- e. Sign shall be limited to identification of tenant only. (BLDGPMT/ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 2 of Resolution R-2017-0001, Control No.1977-00048)

3. Wall signs for the Home Depot Store shall be limited to the western fa*ade of the Home Depot building and individual lettering size shall be limited to sixty (60) inches high. Wall sign shall be limited to only identification of tenant, and limited to the following identification Home Depot". This condition shall not apply to directional signs. (BLDGPMT/ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 3 of Resolution R-2017-0001, Control No.1977-00048)

4. Directional wall signs for the Home Depot Store shall be limited to the western fa*ade of the Home Depot building and individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to only identification of the following:

- a. Nursery; and
- b. Contractor's pick-up. (BLDGPMT/ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 4 of Resolution R-2017-0001, Control No.1977-00048)

5. Prior to final DRC certification of the site plan, the petitioner shall submit a master signage program for the Home Depot store. (Previous Sign Condition 5 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-48) (DRC-ZONING-Zoning) (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SIGNS Condition 5 of Resolution R-2017-0001, Control No.1977-00048)

USE LIMITATIONS

1. Outdoor speaker or public address systems, which are audible from any property line, shall not be permitted on site. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2017-0001, Control No.1977-00048)

2. To mitigate compatibility with adjacent residential area, no pick up or deliveries shall be allowed on the site, including solid waste pickup, prior to 7:00 a.m. nor later than 10:00 p.m. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 2 of Resolution R-2017-0001, Control No.1977-00048)

3. Retail business activity for the Home Depot store shall not be allowed on site, excluding deliveries, prior to 6:30 a.m. nor continue later than 10:00 p.m. daily. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 3 of Resolution R-2017-0001, Control No.1977-00048)

4. Storage or placement of any material, pallets, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 4 of Resolution R-2017-0001, Control No.1977-00048)

5. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within fifteen (15) feet of the east property line and shall be confined to the areas designated on the site plan. (ONGOING: ZONING - Code Enforcement) (Previous USE LIMITATIONS Condition 5 of Resolution R-2017-0001, Control No.1977-00048)

6. Parking of delivery vehicles or trucks shall not be permitted on site except within the designated loading space located on the site plan dated October 16, 2002. No idling of engines shall be permitted. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 6 of Resolution R-2017-0001, Control No.1977-00048)

7. Outdoor retail business activities shall not be allowed on site, excluding deliveries only. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 7 of Resolution R-2017-0001, Control No.1977-00048)

8. Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to incorporate an enclosed outdoor storage at the rear of the facility. (Previous Use Limitation Condition 8 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (DRC:ZONING Zoning) (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous USE LIMITATIONS Condition 8 of Resolution R-2017-0001, Control No.1977-00048)

9. No outdoor retail business activities shall be permitted on the site unless permitted by Special permits. No permanent outdoor display shall be permitted on site. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 9 of Resolution R-2017-0001, Control No.1977-00048)

10. Hours of deliveries for the Home Depot store (Petition 1977-048E) shall be limited from 7:00 a.m. to 8:00 p.m. daily. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 10 of Resolution R-2017-0001, Control No.1977-00048)

11. No changes to the approved uses as stated on the Concurrency Approval chart on the approved Final Site Plan will be permitted unless an updated Parking Study is submitted for review and approval of Zoning Staff. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 11 of Resolution R-2017-0001, Control No.1977-00048)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

CONDITIONS OF APPROVAL

EXHIBIT C-3

Development Order Amendment – Type 1 Restaurant

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2011-430, Control No.1977-00048, which currently states:

The approved site plan is dated December 13, 2010. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission.

Is hereby amended to read:

The approved Preliminary Site Plan is dated July 14, 2023. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2011-0430 (Control 1977-00048), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the Type I Restaurant shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC and generally consistent with the elevations submitted by Interplan, LLC dated July 21, 2010. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCHITECTURAL REVIEW - Zoning) (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2011-430, Control No.1977-00048)

DRO

1. Previous DRO Condition 1 of Resolution R-2011-430, Control No.1977-00048, which currently states:

Prior to approval by the Development Review Officer, the applicant shall revise the site plan to extend the drive aisle abutting the Type I Restaurant (Chick-fil-a) to the southern most ingress/egress driveway. ()

Is hereby deleted: As the site plan has been revised.

USE LIMITATIONS

1. Hours of deliveries for the Type I Restaurant (Chick-fil-A) (Application PDD/DOA/R 2010-1719) shall be limited from 7:00 a.m. to 8:00 p.m. daily. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2011-430, Control No.1977-00048)

2. Outdoor speaker or public address systems, which are audible from any property line, shall not be permitted on site. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 2 of Resolution R-2011-430, Control No.1977-00048)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or

- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

Figure 1 - Land Use Map

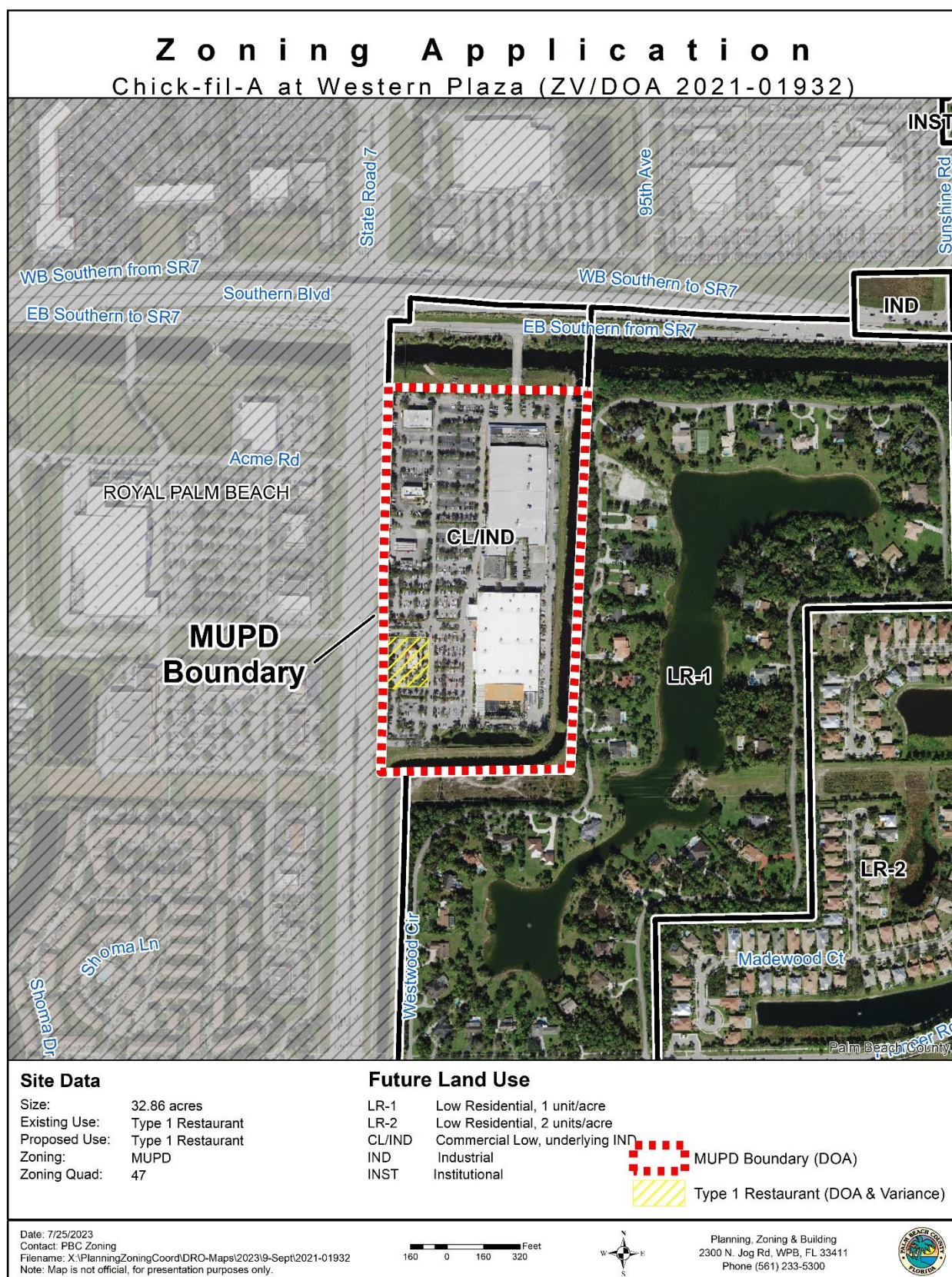


Figure 2 - Zoning Map

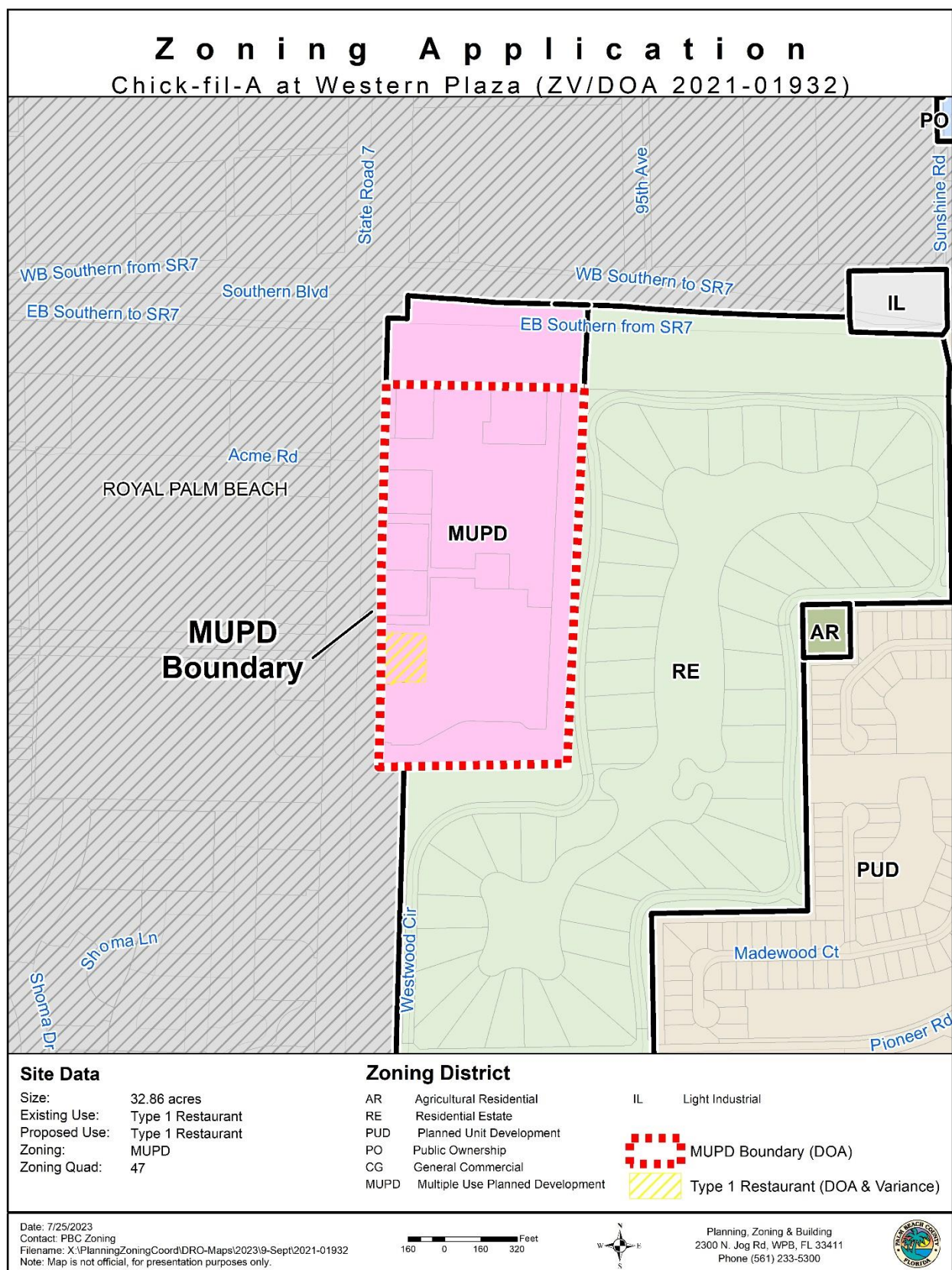
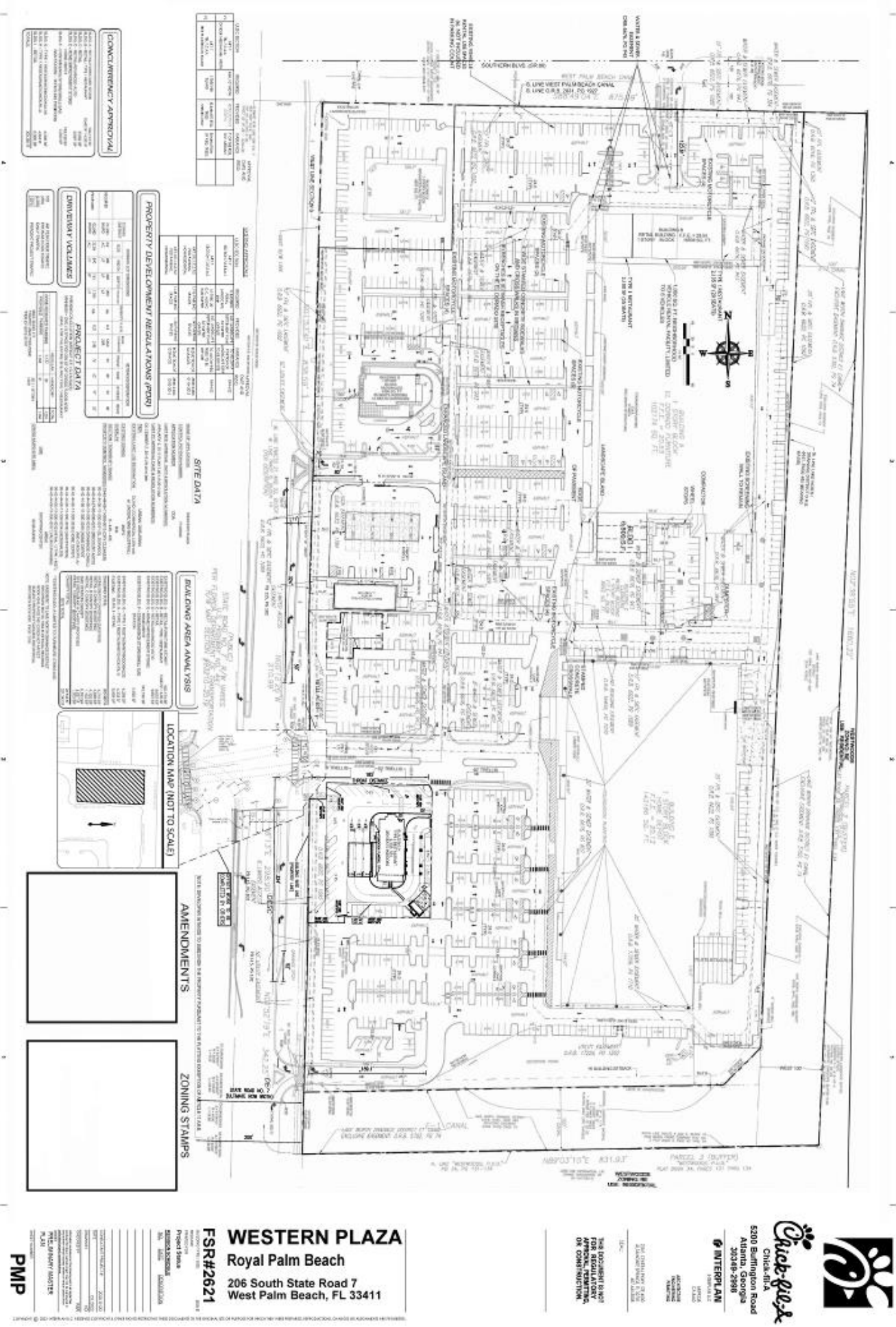


Figure 3 – Preliminary Overall Site Plan dated July 14, 2023



Zoning Commission
Application No. ZV/DOA-2021-01932



Zoning Commission
Application No. ZV/DOA-2021-01932



DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Thomas Guerard, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the ☐ individual or ☒ Vice President, Reinvestment Chick-fil-A Inc [position - e.g., president, partner, trustee] of Chick-fil-A Inc [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 5200 Buffington Road
Atlanta, GA 30349
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief, it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.


Chick-fil-A Inc V.P. Reinvestment

Thomas Guerard, Affiant

(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this 20 day of October, 2021 by Thomas Guerard (name of person acknowledging). He/she is personally known to me or has produced _____ (type of identification) as identification and did not take an oath (circle correct response).

Jessica Hampton
(Name - type, stamp or print clearly)


(Signature)

My Commission Expires on: 06/27/2025

NOTARY'S SEAL OR STAMP



EXHIBIT "A"

PROPERTY

Legal Description "WESTERN PLAZA MUPD NLY 224.97 FT OF SLY 595 FT
OF WLY 198 FT OF LT 1"

EXHIBIT “B”

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name	Address
Chick-fil-A Inc	5200 Buffington Road, Atlanta, GA 30349
NOTE: There are no other entities or individuals owning 5% or more ownership interest in the property.	

Drainage Statement
For



ROYAL PALM
Chick-fil-A #2621
206 South State Road 7
West Palm Beach, FL 33411

November 2, 2021
Project No. 2020.0120

SUBMITTED BY

STUART ANDERSON, P.E.
FL REG. #60848

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Any use of this report or format by any other party is strictly prohibited by Law.



Interplan LLC | AR99238 | CA 8660
220 E. Central Pkwy, Ste 4000 Altamonte Springs, FL 32701
PH 407.645.5008 | FX 407.629.9124

Reference:
Chick-fil-A #2621
206 South State Road 7
West Palm Beach, FL 33411
IP # 2020.0120

DRAINAGE STATEMENT

I. PROJECT DESCRIPTION

The existing 0.97-acre Chick-fil-A restaurant parcel is located at 206 South State Road 7 in West Palm Beach, Florida, ten miles from the Atlantic coast, on an outparcel of the Western Plaza Shopping Center. The Chick-fil-A parcel contains one 4,114 square foot Chick-fil-A restaurant building, a single lane drive-thru, associated parking, and landscaping. This project expands the building area by 400 square feet.

This project expands the existing single lane drive-thru into three lanes under a new three-lane order canopy. Two of the three lanes merge into a single lane to create a continuous dual lane drive thru around the south and east sides of the building, to a two-lane meal delivery canopy east of the building.

II. EXISTING CONDITIONS

The existing Chick-fil-A restaurant parcel is 63% impervious. It has an impervious area of 26,606 sf, a pervious area of 15,667 sf, and a total surveyed boundary of 42,273 square feet (0.97-acres).

The existing stormwater management system collects runoff in six grate inlets in the parking lot. Runoff leaves the Chick-fil-A restaurant parcel through concrete pipes and discharges into an existing wet detention pond on the south side of the Western Plaza Shopping Center, south of the Home Depot.

The site is depicted on FEMA Flood Insurance Rate Map (FIRM) Panel number 12099C0562F, effective on 10/05/2017. The flood zone designation is Zone 'X': Areas of Minimal Flood Hazard.

III. PROPOSED CONDITIONS

The proposed Chick-fil-A restaurant parcel is 75% impervious. It has an impervious area of 31,891 sf, a pervious area of 10,382 sf, and a total surveyed boundary of 42,273 square feet (0.97-acres).

Since the maximum impervious surface ratio for properties in the Western Plaza Shopping Center MUPD is seventy percent, stormwater runoff equal to 2,300 square feet of pavement is detained onsite.

An equivalent volume of stormwater runoff is captured on the roof of the canopy covering three lanes. Stormwater runoff enters an array of StormTech subsurface storage chambers, where runoff is detained. The detained runoff is released over time thru a control structure. The runoff returns to the existing stormwater system, flows thru the existing detention pond, and discharges to a canal.

Improvements to this existing Chick-fil-A site in West Palm Beach, FL will create no downstream effects.

IV. STORMTECH SUBSURFACE ONSITE DETENTION

Installation of StormTech subsurface detention chambers creates detention capacity for excess stormwater runoff over the seventy percent impervious MUPD limit: 2,300 square feet of impervious.

The difference in stormwater runoff is from pavement, with a curve number of 98, and from grass, with a curve number of 39. From a 100-yr 24-hr event, with a 15.3-inch rainfall depth, stormwater runoff from the pavement (CN:98) is 12.54-inches and from the grass (CN:39) is 5.33-inches. The difference in the impervious area increase: 7.21-in x 2,300-sf is the runoff detained: 1,382 cubic feet of stormwater.

StormTech chambers are 85.4-inches long. The StormTech chamber selected for this stormwater application is the SC-740 chamber, with inner dimensions of 51.0-inches width and 30.0-inches height.

SC-740 detention chambers are installed on top of a six-inch-thick stone layer. There is a six-inch-thick stone layer between the top of the chambers and the bottom of the pavement. Chambers are separated from the excavation limits by two-feet and from each other by six inches. The cross-sectional area of the excavation has two parts: pipe storage: 100% voids and stone storage: 40% voids. The entire excavation volume and its contents are enveloped in filter fabric to control the sediment infiltration.

The dimensions of the cross section containing three rows of StormTech chambers, and the offsets, is: 24-in + 51-in + 6-in + 51-in + 6-in + 51-in + 24-in or 213-in and 6-in + 30-in + 6-in or 42-in or 62.13-square feet. The StormTech detention cross section is: $3 \times 45.9\text{-cf} / 85.4\text{-in} / 12 = 19.35\text{-square feet}$ and the structural stone cross section is: $62.13\text{-square feet} - 19.35\text{-square feet}$ or 42.78-square feet.

Therefore, since the detention cross-section is: $19.35\text{-sf} + 0.4 \times 42.78\text{-sf}$ or 36.46-sf voids per X-sec, the minimum 3-chamber length is: $1,382\text{-cf} / 36.46\text{-sf}$ or 38-linear feet of 3-chambers & stone bedding.

A 3.5-ft deep, 42-ft long, & 17.75-ft wide rectangular excavation along the western parking lot edge creates a detention volume of $38\text{-lf} \times 36.46\text{-sf}$ or 1,382-cf. Two-feet of stone at the end of each StormTech excavation creates $(42\text{-38}) \times 62.13\text{-sf} \times 0.4$ or 99-cf. Total: $1,382 + 99 = 1,481\text{-cf} > 1,382\text{-cf}$.

The proposed three-lane canopy roof is connected to the StormTech subsurface detention chamber by a six-inch PVC pipe. Stormwater runoff from the canopy roof descends inside the north western support column, crosses under the parking lot, and enters the StormTech chambers. Detained stormwater runoff discharges from the StormTech detention chambers through an eight-inch PVC pipe to an existing grate inlet on the southwest side of the canopy, and enters the existing stormwater system.

Installation of onsite detention on this existing Chick-fil-A parcel reduces outflow to below MUPD limits. Improvements to this existing Chick-fil-A site in West Palm Beach, FL will create no downstream effects

V. ULTIMATE OUTFALL

Stormwater runoff leaves this Chick-fil-A site toward the south and enters the Western Plaza Shopping Center stormwater drainage system.

Exhibit F – Water and Waste Water Letter dated August 25, 2023



**Water Utilities Department
Engineering**
8100 Forest Hill Blvd.
West Palm Beach, FL 33413
(561) 493-6000
Fax: (561) 493-6085
www.pbcwater.com

**Palm Beach County
Board of County
Commissioners**

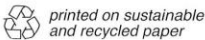
Gregg K. Weiss, Mayor
Maria Sachs, Vice Mayor

Maria G. Marino
Michael A. Barnett
Marci Woodward
Sara Baxter
Mack Bernard

County Administrator

Verdenia C. Baker

*"An Equal Opportunity
Affirmative Action Employer"*



August 25, 2023

Dunay, Miskel & Backman, LLP

RE: Western Plaza Chick-fil-A
DOA 2021-1932
Service Availability Letter


Dear Mr. Milledge,

This is to confirm that the referenced property is located within Palm Beach County Utility Department (PBCWUD) utility service area.

Based on our records this building is currently served with potable water and sanitary sewer and PBCWUD can accommodate the building addition.

Any modifications to the public utilities will require approval by (PBCWUD).

If you have any questions, please give me a call at (561)493-6116.

Sincerely,

Jackie Michels, P.E,
Project Manager

WESTERN PLAZA – CHICK-FIL-A
DEVELOPMENT ORDER AMENDMENT
TYPE 2 VARIANCE
Justification Statement
Control No. 1977-0048
Application No.: ZV/DOA - 2021-00407
PCN: 00-42-44-06-11-000-0019
Original Submittal: October 25, 2021
1st Resubmittal: March 28, 2022
2nd Resubmittal: November 28, 2022
3rd Resubmittal: January 23, 2023
4th Resubmittal: March 27, 2023
5th Resubmittal: May 22, 2023
6th Resubmittal: July 14, 2023

Introduction:

On behalf of the Applicant/Owner, Chick-fil-A, Inc., Interplan LLC respectfully requests review and approval of the following requests:

- 1. **Development Order Amendment** to redesign the site plan for Resolution No. 2017-001;
- 2. **Development Order Amendment** to expand the existing Class A Conditional Use for a Type 1 Restaurant with Drive-Thru (Chick-Fil-A), Building H for Resolution No. 2011-0428;
- 3. **Type 2 Variances** to modify the overall Master Plan which includes the Type 1 Restaurant site (Chick-fil-A), Building H, Variances 1 and 2.

The property is located on the southeast corner of Southern Boulevard (SR 80) and State Road 7. The subject site is 32.86 acres of land with an existing Land Use Designation of Commercial Low/Industrial (CL/IND) and a Zoning District of Multi-Use Planned Development (MUPD). The subject site is located within Palm Beach County’s Urban/Suburban Tier.

Development Program:

The Owner’s proposed development consists of the following:

- 1. A Development Order Amendment to reconfigure the master plan to reflect the proposed changes to Building H (Chick-fil-A) – Resolution No. 2017-001
- 2. A Development Order Amendment to allow the modification of Building H (Chick-fil-A) to add two (2) drive-thru lanes to the approved one (1) drive-thru lane – Resolution No. 2011-0428.
- 3. Type 2 Variance request to modify the overall master plan for Building H (Chick-fil-A) regarding landscaping Article 7 – Table 7.C.4.A Divider Median minimum width from 10’ to 3’, as well as elimination of tree planting in the landscape islands Article 7 – Table 7.C.4.A Tree Planting In Island.

Property Control Numbers:

- Building A – 00-42-44-06-11-000-0011 – EL Dorado Furniture
- Building B – 00-42-44-06-11-000-0012 and 0013 – Western Plaza (441 Southern LLC)
- Building C – 00-42-44-06-11-000-0015 – Western Plaza
- Building D – 00-42-43-27-05-008-0213 - Discount Auto
- Building E – 00-42-44-06-11-000-0017 and 0018 - Home Depot
- Building F – 00-42-44-06-11-000-0016 – Shell Station
- Building G – 00-42-44-06-11-000-0014 – McDonald’s
- Building H – 00-42-44-06-11-000-0019 – Chick-fil-A

Project History:

Control / Application No.	Request	Action	Date	Resolution No.
CONTROL #1977-00048	REZONE FROM AG TO CG SE-PCD INCLUDING A LARGE-SCALE COMMUNITY SHOPPING CENTER, AUTO SERVICE STATION, CAR WASH TWO (2) FINANCIAL INSTITUTIONS, INTERIM ONSITE WATER & SEWER TREATMENT	APPR OVAL	05.17.1977	R1977-0483
CONTROL #1977-00048	SE TO AMEND AND EXPAND THE SITE PLAN FOR WESTERN PLAZA, TO	APPR OVAL	05.17.1977	R1977-0483
CONTROL #1977-00048(A)	REZ AR TO CG, SE TO AMEND AND EXPAND THE SITE PLAN FOR WESTERN PLAZA, TO A PCD TO DELETE THE INTERIM ON SITE WATER & SEWAGE TREATMENT PLANT	APPR OVAL	04.29.1988	R1989-0441 R1989-0440
CONTROL #1977-00048(B)	DOA – TO INCREASE SF	APPR OVAL	10.28.1993	R1993-1362
CONTROL #1977-00048(C)	DOA – TO AMEND CONDITIONS OF APPROVAL	APPR OVAL	04.28.1994	R1994-0505
CONTROL #1977-00048(A)	CLASS A CONDITIONAL USE A FOR A RESTAURANT	APPR OVAL	10.28.1993	R1995-0004
CONTROL #1977-00048(A)	CHANGE TO LEGAL DESCRIPTION	APPR OVAL	10.28.1993	R1995-0006
	DOA TO MODIFY SP AND BUILDING SF	APPR OVAL	01.09.	R2003-0098

Control / Application No.	Request	Action	Date	Resolution No.
			2003	
BA2003-00026	TO ALLOW A PROPOSED ORIENTATION DOOR TOWARDS RESIDENTIAL ZONING DISTRICT, AND TO ALLOW LANDSCAPE BUFFER TO ENCROACH INTO THE EASEMENT	APPROVAL	04.17.2003	NO RESOLUTION
BA2005-0817	TO ALLOW A SIGN TO EXCEED THE MAX. SF	APPROVAL		2005-00817 A 2005-00817
PDD/DOA/R 2010-01719	REZONING TO PDD for CHICK FILA	APPROVAL	03.31.2011	R2011-0428
PDD/DOA/R 2010-01719	DOA TO RECONFIGURE THE SP AND ADD SF	APPROVAL	03.31.2011	R2011-0429
PDD/DOA/R 2010-01719	REQUESTED USE – TYPE 1 RESTAURANT	APPROVAL	03.31.2011	R2011-0430
ZV2012-01574	TYPE II VARIANCE REDUCTION OF # OF PARKING SPACES	DENIAL	09.06.2012	ZR2012-0027
DOA 2013-00769	DOA TO RECONFIGURE THE SP AND ADD F	APPROVAL	10.24.2013	R2013-1519
ZV2010-01712	TO ALLOW MORE THAN ONE FREESTANDING STRUCTURE WITHIN A MUPD	WITHDRAWN		
ZV2012-03107	TYPE II VARIANCE TO ALLOW A REDUCTION IN THE # OF PARKING SPACES	APPROVAL	01.04.2013	ZR2013-0003
ZV/DOA/R2015-02348	TYPE II VARIANCE TO ALLOW A REDUCTION IN THE # OF PARKING SPACES	APPROVAL	12.02.2016	ZR2016-066
ZV/DOA/R2015-02348	DOA TO RECONFIGURE SP ADD SF AND FUELING STATIONS ADD A REQUESTED USE AND MODIFY COA	APPROVAL	01.05.2017	R2017-0001

Control / Application No.	Request	Action	Date	Resolution No.
ZV/DOA/R2015-02348	REQUESTED USE TO ALLOW A C-STORE WITH GAS SALES	APPROVAL	01.05.2017	R2017-0002

Surrounding Properties:
The following summarizes the nature of the surrounding properties adjacent to the subject site.

	EXISTING FLU	EXISTING ZONING	PCN	EXISTING USE	CONTROL NUMBER
Subject Site	CL/IND	MUPD	00-42-47-34-25-001-0000 00-42-47-27-35-023-0053	RETAIL CENTER RESTAURANTS	1977-48
North	CITY COMMERCIAL	CITY CG	72-42-43-27-05-008-00163 72-42-43-27-05-008-00152	CHURCH	N/A
South	LR-1	RE	MULTIPLE PCN	RESIDENTIAL	1977-00047 R1977-0482
East	LR-1	RE	MULTIPLE PCN	RESIDENTIAL	1977-00047 R1977-0482
West	CITY COMMERCIAL	CITY CG	MULTIPLE PCN	COMMERCIAL RETAIL	N/A

Type 2 Variances:

VARIANCE	ULDC SECTION	REQUIRED	PROPOSED	VARIANCE
V.1	ARTICLE 7 TABLE 7.C.4.A DIVIDER MEDIAN MIN. WIDTH	MIN. 10' WIDTH	REDUCED TO 3' (SOUTH)	-7' OF THE REQ. DIV. MEDIAN
V.2	ARTICLE 7 TABLE 7.C.4.A TREE PLANTING IN ISLAND	1 TREE PER ISLAND	ELIMINATE REQ. TREES SHRUBS ONLY	ELIMINATION OF REQ. TREES

Concurrency Box for the development is listed below:

Building A – Retail/Furniture Store	102,174 s.f.
Building B – Retail	12,603 s.f.
Building B – Type 1 Restaurant	4,235 s.f.
Building C – Retail	9,052 s.f.
Building D – Retail/Advanced Auto	9,697 s.f.
Building E – Home Improvement Store/Home Depot	143,186 s.f.
Building F – Convenience Store/Shell Gas	
Gas Station -16 Fueling Positions	4,000 s.f.
Building G – Type 1 Restaurant (McDonalds)	4,298 s.f.
Building H – Type 1 Restaurant (Chick-fil-A)	4,335 s.f.
Building I – Retail	<u>6,800 s.f.</u>
TOTAL	300,380 s.f.

Multiple Use Planned Development – Design Objectives and Performance Standards – Article 3.B.1 and 2:

In addition to the Development Order Amendment, the project must continue to meet the Objectives and Performance Standards.

Design Objectives: The proposed project meets the design objectives of the ULDC for a Commercial Low MUPD as follows:

- a. The project was previously approved in 1977. At the time, residential was not allowed within a commercial development. The current application and existing development are consistent with the previous ULDC language.
- b. Provides innovative building location and orientation; the existing building were built at a time with the requirements of Article 5.C. design was not part of the ULDC. The newer buildings such as the Chick-fil-A and the gas station met the requirements of Article 5.C.
- c. Protects adjacent residential uses from potential adverse impacts; the proposed Development Order Amendment will allow for expanded use of Building H (Chick-fil-A) which is located along the perimeter of the overall site adjacent to State Road 7 and will have no adverse impacts on the adjacent residential.
- d. Provides interconnection between uses in and adjacent to the project is provided with pedestrian connections to State Road 7 and Southern Boulevard.
- e. Allows for landscape design that enhances the appearance of the project; the commercial development is existing and either meets or exceeds the landscaping requirements with the existing landscaping. Building H is requesting variances to allow the reduction of some of the requirements addressed below.
- f. An MUPD with an EDC FLU designation shall be primarily utilized by office and research parks, which may also include manufacturing and processing, research and development, wholesale distribution and storage of products; This standard does not apply to the subject site.

- g. Allows vehicles in the lane closest to the structure to exit towards the by-pass lane guided by the Chick-Fil-A team members working outside at order points. Team members would direct the Customer to the bypass lane when needed to ensure the safety of customers.
- h. There are two (2) lanes at the point of service pick-up window. Chick-fil-A uses an automatic door at peak hours so that employees can walk through and deliver food to the outside lane and serve four to six (4-6) cars at a time instead of just the standard one (1) car at a delivery window. This is the purpose of the two (2) lane canopy and two (2) delivery lanes at the point of the service pick-up point as shown on the site plan. The outermost delivery lane will be closed off with cones during times of non-peak drive-thru traffic.

Performance Standards: The Performance Standards for MUPD's are addressed below:

- a. **Freestanding Buildings:** No additional buildings are proposed with this application. The dumpster storage area adjacent to the dumpster enclosure is shown in previous approved plans for this location and is proposed to be reconfigured as notated on the site plan.
- b. **Non-Vehicular Circulation – A MUPD shall be designed to provide for a pedestrian and bicycle-oriented circulation system throughout the development.** As mentioned above, there is existing pedestrian interconnectivity on site.
- c. **Landscape Buffers –** The perimeter landscape buffers are existing and are not proposed to be amended with this application.
- d. **Cross Access –** Cross access internal to the MUPD is provided via internal driveway and pedestrian paths. Residential is located on the east and south sides of the MUPD and cross access would be inappropriate, furthermore, a canal is located on the north, east and west boundaries of the MUPD which prohibits any cross-access with adjacent parcels.
- e. **Parking and Loading** - The proposed Site Plan complies with all Parking Area and Loading Area Screening requirements.

Development Order Amendment and Conditional Use Standards – Resolution No. 2017-001:

Based on Article 2.B.7.C.2 for a Development Order Amendment (DOA) refers the Applicant to address the Standards under Article 2.B.7.B.2 (Conditional Use and Rezoning) of the Palm Beach County Unified Land Development Code (ULDC) establishes standards by which these requests shall be considered.

- a. **Consistency with the Plan:**
Response: The proposed Development Order Amendment and the amendment to the Type 1 Restaurant is consistent with the purposes, goals, objectives, and policies of the Plan. The subject site has a CL/IND Future Land Use Designation. Additionally, the subject property is located within the Urban/Suburban Tier.

This Applicant's proposal is consistent with the following policies:

The maximum Floor Area Ratio (FAR) of 0.50 is allowed for a non-residential project with the CL/IND Future Land Use (FLU) designation in the U/S Tier (32.86 acres x 43,560 sq. ft./acre x 0.50 maximum FAR = 715,690 sq. ft. maximum). The current application would amend the FAR to be 0.21 based upon 298,772/715,690 sf. Furthermore, Applicant's proposal does not materially change the nature for which this MUPD was originally approved.

b. Consistency with the Code:

Response: The proposed Development Order Amendment and the Development Order Amendment to the Type 1 restaurant complies with all applicable standards and provisions of this Code for use, layout, function and general development characteristics. The application is further consistent with the requirements found in Article 6 and 7 of the ULDC relating to landscaping and parking.

31.Type 1 Restaurant

a. Definition

An establishment equipped to sell food and beverages in one of the following methods: drive-thru sales to patrons in automobiles for takeout who place orders through a window or remote transmission device; or sales to patrons for takeout or dining in, that includes three or more of the following: food or beverage choices are advertised on a menu board; countertop sales where payment is made prior to consumption; disposable containers and utensils; limited service dining facilities with no hostess or waiters; and self-service or prepackaged condiments. This property is a legal lot of record and is not proposed to be further subdivided.

b. Approval Process

1) DRO Approval

A Type 1 Restaurant without a drive-through where the use is allowed provided the GFA including outdoor dining areas does not exceed 5,000 square feet. **Not applicable as additional drive-thrus are being requested.**

2) Permitted by Right

may be
FLU
A Type 1 Restaurant without a drive-through or located in an out parcel,
Permitted by Right in any PDD or TDD with a commercial or institutional designation, or Pod; the commercial or recreational pod of a PUD, MHPD or RVPD; and all commercial zoning districts, provided the GFA including outdoor dining areas does not exceed 1,500 square feet. **Not applicable as additional drive-thru lanes are being requested.**

c. Tier Specific - Exurban and Rural

- A Type 1 Restaurant shall comply with the following:
- 1) Shall not be the sole use on the property;
 - 2) Shall be located in a MUPD or TDD;
 - 3) Shall not have direct ingress/egress to an adjacent Arterial or Collector Street. Ingress/egress shall be from the interior of the overall vehicular circulation system for the development or interior streets, whichever is applicable; and,
 - 4) Shall comply with the design requirements outlined under Article 4.B.2.C.32.f.3), Exceptions. **The Property is consistent with these requirements as there are several uses within the MUPD and does not have direct access to State Road 7.**

d. Zoning Districts – TMD and LCC

- A Type 1 Restaurant shall be limited to:
- 1) 5,000 square feet of indoor dining area, for a maximum of 6,500 square feet of GFA.
 - 2) Located in an outparcel or freestanding building; or
 - 3) A drive-thru, unless it is located in the rear of a building, with access from an alley or the interior of a parking area, and is covered by a canopy or the second story of a building. **Not applicable as the subject property is located in the Existing MUPD Zoning District.**

e. Accessory Alcohol Sales

A Type 1 Restaurant may include the on-premises sale, service and consumption of alcoholic beverages as an accessory use. **No alcohol is being proposed in the Type 1 Restaurant.**

f. Location Criteria

- A Type 1 Restaurant with a drive-through shall be subject to the following:
- 1) Intersection Criteria
A maximum of two (2) Type 1 Restaurants shall be permitted at an intersection in accordance with Art. 5.E.2.B, Intersection Criteria. **Building H is exempt from this criterion pursuant to ULDC 5. E.2D., as the use is existing.**
 - 2) Separation Criteria
A Type 1 Restaurant shall be separated from any other Type 1 Restaurant in accordance with Art. 5.E.2.C.2 **Complies as Building H is more than 500 feet from Building G.**

3) Exceptions

a. Design Criteria

b. MUPD

Type 1 Restaurant located within an MUPD may be exempt from the Location Criteria of 1) Intersection Criteria, and 2) Separation Criteria, in compliance with the following:

(1) Required Perimeter Landscape Buffers, where located between all Type 1 Restaurant areas, including ingress/egress, and any R-O-W or parcel of land with a residential FLU designation or use, unless obstructed from view by other existing structures; and,

(2) Direct access from any perimeter R-O-W abutting the MUPD shall be prohibited. All access shall be from entrances established for the overall MUPD, and comply with minimum standards for ingress/egress, stacking, turn lanes, and pedestrian connectivity. **Complies.**

g. Major Intersection Criteria for CL FLU

A Type 1 Restaurant with a CL FLU designation shall comply with Art. 5.E.1, Major Intersection Criteria, unless the restaurant meets the requirements of one or more of the following: Art. 4.B.2.C.33.b.1), DRO Approval, Art. 4.B.2.C.33.b.2), Permitted by Right, is located within a TMD, or complies with the design requirements outlined under Art. 4.B.2.C.33.e.3), Exceptions.

Response: Not applicable as the subject site is adjacent to a roadway shown on the Thoroughfare Plan as 120-foot ROW or greater.

h. Outdoor Dining

Shall comply with the principal structure setbacks. **Complies as no outdoor dining is proposed.**

c. Compatibility with Surrounding Uses:

Response: The existing or proposed changes are compatible and generally consistent with the uses and character of the land surrounding. The Property is located at the major intersection of State Road 7 (SR-7) and Southern Boulevard where there is major commercial activity. The SR-7 corridor is known to be a suitable location for more intense commercial activities. While there are single family residential to the east and the south, the Property is separated from those residences by over one hundred feet of a canal right-of-way.

d. Design Minimizes Adverse Impact:

Response: The proposed changes to Building H and the area surrounding the site will not have an adverse visual impact on the adjacent properties, the change is minimal and made along the State Road 7 frontage and will not affect the surrounding neighborhood. Moreover, the overall MUPD is separated from the

nearby residential community by an appropriate buffer with concrete wall and is further separated by a 100+ foot canal right-of-way.

e. Design Minimizes Environmental Impact:

Response: The proposed revision to the master plan and Building H site plan will have no impacts to water, air stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment. The Applicant's proposal adds de minimus amount of square footage and revises on-site circulation to prevent adverse stacking into internal drive aisles, and therefore there will be no environmental impacts as a result of this application.

f. Development Patterns:

Response: The subject site is located at the major intersection of SR-7 and Southern Boulevard which is known for major commercial development. The Property is consistent and compatible with the other developments along the SR-7 corridor. As stated above, other than Building H, the existing landscape for the MUPD will remain as existing today and the Applicant's outparcel will be enhanced based on the enclosed landscape plan.

g. Adequate Public Facilities:

Response: The proposed application will comply with Article 2.F., Concurrency. The expanded Building H square footage will tie into the existing PBCWUD Standard Developers Agreement for water and water. The de minimus square footage added to the existing building will have no profound impact on levels of service and are merely for back-of-house operations.

Traffic: *Traffic Report has been included with the DOA application and prepared by McMahon and Associates which includes new traffic pattern at SR-7.*

Drainage: *The stormwater management system for the Western Plaza MUPD is part of the permitted surface water management system that discharges into the existing pond with final outfall to the master system for the Westwoods PUD. Please see attached drainage statement.*

h. Changed Conditions or Circumstances:

Response: There are demonstrated changed conditions or circumstances. Over the past several years, Chick-Fil A has seen exponential growth in its customer base, particularly in drive-thru. Because of this success, the company has carefully and strategically designed a safe mechanism to efficiently move customers through the drive-thru with the use of team members being present onsite to both take orders directly at the car windows and deliver meals to cars window so that multiple vehicles can be served at a time. Approval of this request will allow better function of the current operation as the canopies will protect the team members and better facilitate the efficiency of cars on and off the site.

TYPE 2 VARIANCE

This application requests Type 2 Variances for the reduction of required landscaping for Building H (Chick-fil-A).

VARIANCE	ULDC SECTION	REQUIRED	PROPOSED	VARIANCE
V.1	ARTICLE 7 TABLE 7.C.4.A DIVIDER MEDIAN MIN. WIDTH	MIN. 10' WIDTH	REDUCED TO 3' (SOUTH)	-7' OF THE REQ. DIV. MEDIAN
V.2	ARTICLE 7 TABLE 7.C.4.A TREE PLANTING IN ISLAND	1 TREE PER ISLAND	ELIMINATE REQ. TREES SHRUBS ONLY	ELIMINATION OF REQ. TREES

The above-mentioned requests:

1. Do not interfere with landscaping within the median of state roads as the requests are internal to Building H (Chick-fil-A);
2. Do not affect the landscaping along the perimeter of the property line; landscaping requests are internal to the Chick-fil-A site;
3. Do not affect landscaping for Home Depot; landscaping requests are internal to the Chick-fil-A site.

There are two (2) driveways internal to the shopping center providing access to the site. The existing site layout consists of a single drive-thru with one (1) lane of stacking adjacent to the building. The majority of the parking is along the north and western property boundary.

Chick-fil-A is proposing to remodel the existing building to be more efficient and expedite customer service in the interest of public safety. The total square footage of the building is 4,335sf with one hundred (100) indoor seats and zero (0) patio seats. The new site configuration consists of a drive-thru with multi-order points on the west side of the building. For the site reconfiguration, Chick-fil-a is proposing two (2) lanes at the point of service pick-up window. Chick-fil-A uses an automatic door at peak hours so that employees can walk through and deliver food to the outside lane and serve four to six (4-6) cars at a time instead of just the standard one (1) car at a delivery window. This is the purpose of the two (2) lane canopy and two (2) delivery lanes at the point of the service pick-up point as shown on the site plan. The second (2nd)/outermost delivery lane will be closed off with cones during times of non-peak drive-thru traffic.

Pursuant to ULDC Section 2.B.7.E, the following criteria must be satisfied for the granting of variances. Below is an analysis of the variance standards which demonstrates compatibility.

Variance No. 1 – Article 7 – Table 7.C.4.A – Divider Median Minimum Width – the code requirement is a minimum ten (10) foot divider median – proposed is a reduction from ten (10) feet to three (3) feet along the south side.

Variance No. 2 – Article 7 – Table 7.C.4.A – Tree planting within the landscape island – code requirement is one (1) tree per island – proposed is the elimination of the tree requirement and providing only shrubs.

The above-mentioned requests do not affect landscaping for Home Depot; landscaping requests are internal to the Chick-fil-A site;

Variances 1 and 2

- a) Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same zoning district:

Response: Some special conditions and circumstances exist within the subject site. The small size of the site already limits the vehicle stacking that can be accommodated by the drive thru site. The landscaping and right of way buffer requirements for the site would take up more space and render traffic flow and parking nearly inoperable. Currently, the existing Chick-fil-A employs a single drive-thru and based on the remodel will allow three (3) lanes for stacking to adequately meet the demand of vehicles. Reducing the landscape areas within the small site will allow for the remodel to efficiently service the customers and avoid overflow of drive-thru queuing.

- b) Special circumstances and conditions do not result from the actions of the Applicant.

Response: Some special conditions and circumstances exist with the subject site that does not result from the actions of the Applicant. Granting this variance will not grant any special circumstances or conditions. Chick-fil-A's business model has shifted to a drive-thru model. This means that the drive-thru lanes and stacking are required to safely direct drive-thru customers and dine-in guests on and off the site. The remodel will increase pedestrian and vehicular safety and efficiency. Any additional planting areas around the building would impede the necessary drive-thru lanes. While this project was compliant with Code when it was originally approved, the amount of stacking required for this site could support the consistent demand, therefore, revisions to the circulation of the site are necessary to safely provide additional stacking to accommodate the demand and prevent stacking from blocking internal driveways and parking spaces.

- c) Granting the variance shall not confer upon the applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings or structures in the same zoning district:

Response: Granting of this variance does not confer any special privilege denied by the Comprehensive Plan and the ULDC. As noted above, the variances will not negatively affect any adjacent properties, as the area surrounding the subject site is already developed with non-residential uses. Applicant is providing the same amount of screening in a smaller area and therefore this variance is not conferring a special privilege.