

RESOLUTION NO. ZR-2023-026

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2021-01932
(CONTROL NO. 1977-00048)
TYPE II VARIANCE (CONCURRENT)
APPLICATION OF Chick Fil A Inc.
BY Interplan LLC, AGENT
(CHICK-FIL-A AT WESTERN PLAZA)

WHEREAS, the Zoning Commission, pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the ULDC have been satisfied;

WHEREAS, Zoning Application ZV/DOA-2021-01932 the Application of Chick Fil A Inc., by Interplan LLC, Agent, for a Type 2 Variance to reduce the divider median width and to eliminate the tree within the landscape island on 0.97 acres; a Development Order Amendment to reconfigure the Site Plan and add building square footage on the 32.86 acres; and, a Development Order Amendment to reconfigure the Site Plan; add square footage and drive-through lanes for a Type 1 Restaurant on 0.97 acres was presented to the Zoning Commission at a public hearing conducted on September 7, 2023;

WHEREAS, the Zoning Commission considered the evidence and testimony presented by the Applicant and other interested parties, and the recommendations of the various County Review Agencies;

WHEREAS, the Zoning Commission hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Type 2 Variance;

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC requires that action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/DOA-2021-01932, the Application of Chick Fil A Inc., by Interplan LLC, Agent, for a Type 2 Variance to reduce the divider median width and to eliminate the tree within the landscape island on 0.97 acres, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on September 7, 2023, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof, and variance request as described in EXHIBIT D, attached hereto and made a part hereof.

Commissioner Kern moved for the approval of the Resolution.

The motion was seconded by Commissioner Gromann and, upon being put to a vote, the vote was as follows:

Jess Sowards, Chair	- Aye
Cheri Pavlik, Vice Chair	- Aye
John Kern	- Aye
Michael Kelley	- Absent
Glen Gromann	- Aye
Sheri Scarborough	- Aye
Lisa Reves	- Aye
Alex Brumfield III	- Aye
Mark Beatty	- Aye

The Chair thereupon declared the resolution was duly passed and adopted on September 7, 2023.

This resolution shall only become effective upon the adoption of a resolution approving Zoning Application ZV/DOA-2021-01932 by the Board of County Commissioners.

This resolution was filed with the Palm Beach County Zoning Division on September 7, 2023.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: 
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

CHICK –FIL-A PARCEL DESCRIPTION

A PARCEL OF LAND LYING IN TRACT 6, BLOCK 10 AND THE PLATTED RIGHT-OF-WAY LYING WEST OF AND ADJACENT TO SAID TRACT 6, PLAT OF PALM BEACH FARMS COMPANY PLAT NUMBER 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, IN SECTION 6, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF PARCEL 3, WESTWOODS, AS RECORDED IN PLAT BOOK 34, PAGES 131 THROUGH 134, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING THE INTERSECTION OF THE SOUTH LINE OF SAID TRACT 6 WITH THE EAST LINE OF THAT CERTAIN DRAINAGE EASEMENT DESCRIBED IN DEED RECORDED IN OFFICIAL RECORD BOOK 4248, PAGES 180 THROUGH 182 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; RUN THENCE S89°22'39"W ALONG THE SOUTH LINE OF SAID TRACT 6 AND ITS WESTERLY EXTENSION, A DISTANCE OF 111.92 FEET TO THE WEST LINE OF THAT CERTAIN DRAINAGE EASEMENT DESCRIBED IN DEED RECORDED IN OFFICIAL RECORD BOOK 5702, PAGES 72 AND 73 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA (SAID DRAINAGE EASEMENT RUNNING ON A NORTH-SOUTH DIRECTION AND LYING EAST AND IMMEDIATELY ADJACENT TO STATE ROAD NUMBER 7); THENCE N01°52'19"E ALONG SAID WEST LINE AND THE EAST RIGHT-OF-WAY LINE OF SAID STATE ROAD NUMBER 7, A DISTANCE OF 112.98 FEET; THENCE CONTINUE THE FOLLOWING THREE (3) COURSES ALONG SAID EAST RIGHT-OF-WAY LINE; (1) N01°52'19"E A DISTANCE OF 229.27 FEET; (2) N00°58'13"E A DISTANCE OF 28.53 FEET FOR A POINT OF BEGINNING; (3) N00°58'13"E A DISTANCE OF 198.50 FEET; THENCE S89°01'47"E A DISTANCE OF 27.99 FEET; THENCE N00°58'13"E A DISTANCE OF 26.47 FEET; THENCE S88°32'09"E A DISTANCE OF 165.01 FEET; THENCE S25°22'17"E A DISTANCE OF 11.28 FEET; THENCE S00°58'13"W A DISTANCE OF 203.43 FEET; THENCE N89°01'47"W A DISTANCE OF 138.00 FEET; THENCE S00°58'13"W A DISTANCE OF 10.00 FEET; THENCE N89°01'47"W A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING.

NOW KNOWN AS:

A PORTION OF LOT 1, WESTERN PLAZA P.U.D., AS RECORDED IN PLAT BOOK 115, PAGES 102, 103, 104 AND 105, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT SOUTHWEST CORNER OF LOT 1, WESTERN PLAZA M.U.P.D., AS RECORDED IN PLAT BOOK 115, PAGES 102, 103, 104 AND 105, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, RUN THENCE N01°32'40"E, ALONG THE EAST RIGHT-OF-WAY LINE OF STATE ROAD 7, A DISTANCE OF 342.25 FEET; THENCE N00°38'34"E, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 28.53 FEET FOR A POINT OF BEGINNING; THENCE CONTINUE N00°38'34"E A DISTANCE OF 198.50 FEET; THENCE S89°21'26"E A DISTANCE OF 27.99 FEET; THENCE N00°38'34"E A DISTANCE OF 26.47 FEET; THENCE S88°51'48"E A DISTANCE OF 165.01 FEET; THENCE S25°41'56"E A DISTANCE OF 11.28 FEET; THENCE S00°38'34"W A DISTANCE OF 203.43 FEET; THENCE N89°21'26"W A DISTANCE OF 138.00 FEET; THENCE S00°38'34"W A DISTANCE OF 10.00 FEET; THENCE N89°21'26"W A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 42,273 SQUARE FEET OR 0.9705 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

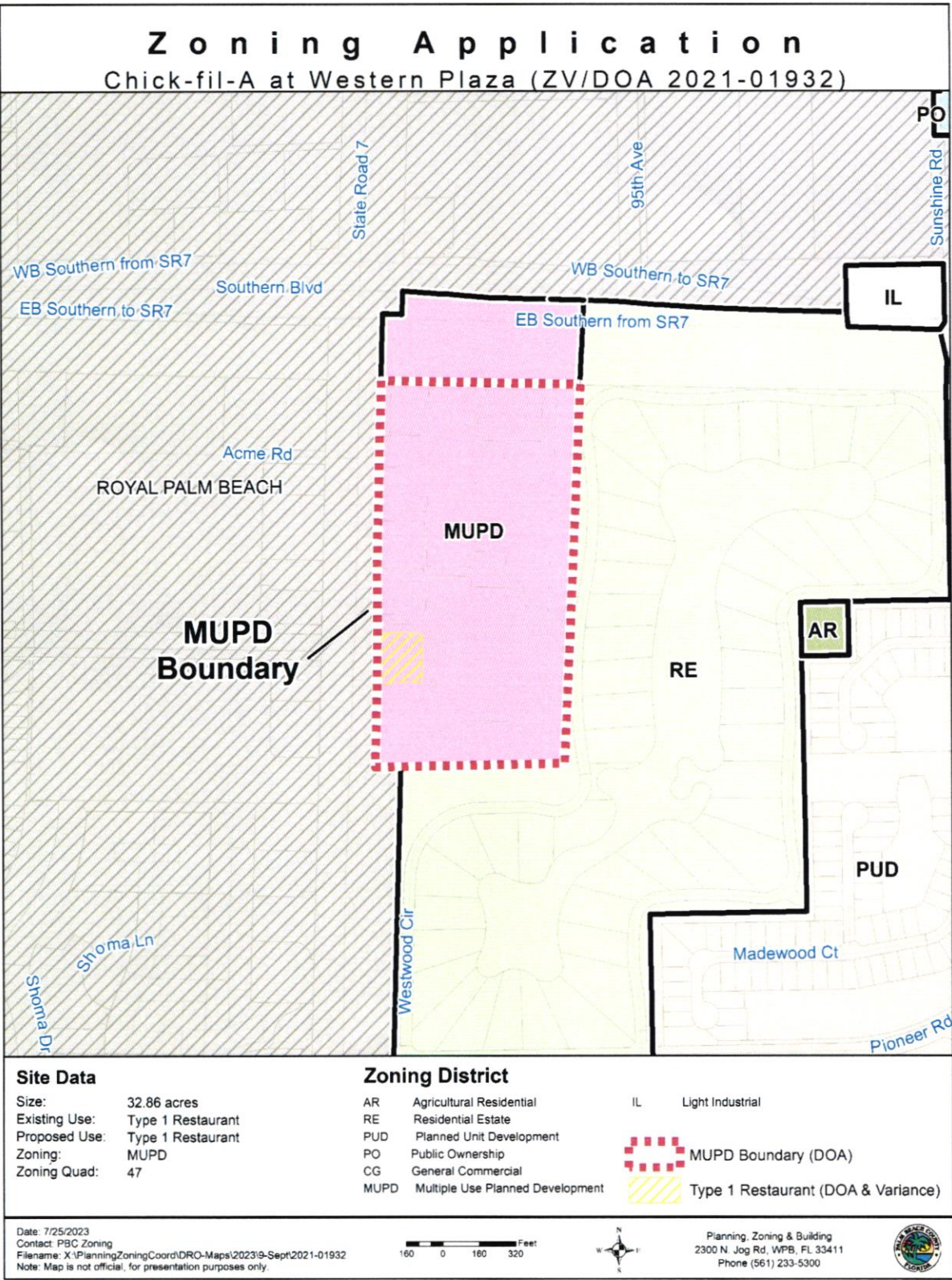


EXHIBIT C

CONDITIONS OF APPROVAL

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: 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: 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.

EXHIBIT D

REQUEST

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 Building H)
(V-2) 7.C.4.A Landscape Islands	10-feet wide (south of Building H)	3-feet wide (south side of Building H)	Island width reduction of 7 feet (south side of Building H)

SITUS ADDRESS:	206 S State Road 7 West Palm Beach 33414	
OWNER NAME & ADDRESS:	Chick Fil A Inc 5200 Buffinton Road Atlanta, GA 30349	
PCN:	00-42-44-06-11-000-0019	
ZONING DISTRICT:	MUPD	
BCC DISTRICT:	06	
PROJECT MANAGER:	Donna Adelsperger, Senior Site Planner	
LAND USE:	CL/IND	S/T/R: 06-44-42
CONTROL #:	1977-00048	
LOT AREA:	0.97 acres +/-	
APPLICANT REQUEST:	to reduce the divider median width and to eliminate the tree within the landscape island on 0.97-acres	