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September 22, 2021

VIA E-MAIL

Honorable Chairperson and Members
Pompano Beach Planning and Zoning Board
City Hall Main Building
100 West Atlantic Boulevard, Third Floor
Pompano Beach, Florida 33060

**Re: Major Administrative Adjustment, Chick-Fil-A,
2250 North Federal Highway, Pompano Beach.**

Dear Chairperson and Members
of the Planning and Zoning Board:

I represent FedPom Center, LLC ("FedPom"), which owns the property at 2240 N. Federal Highway, Pompano Beach, Florida. Because FedPom's property is adjacent to, and immediately south of, the property subject to the referenced application for a major administrative adjustment to reduce the applicant's parking, FedPom will be impacted to a greater extent than the community in general if this request is granted.

FedPom has serious concerns about this application. The applicant seeks a major administrative adjustment that will exacerbate an already intolerable site plan issue that continues to limit my client's ability to utilize its property. Access to both the Chick-Fil-A and FedPom properties is shared through the operation of an easement. That easement is made up of two 10-foot-wide strips of land on either side of their property line that make up the access drive for both properties. The easement runs between N. Federal Highway on the west and NE 24 Avenue/NE 22 Court on the east. The eastern most portion of the easement widens to accommodate a 25-foot-wide connection to the street (see Exhibit "A"). This easement is continually obstructed by Chick-Fil-A customers in their cars stacked in the easement and blocking customers of the businesses in the FedPom Center from coming or going. This has had a serious impact on my client's ability to lease its commercial units and for tenants to operate their businesses.

Chick-Fil-A readily admits this problem and claims that this application is the way to solve it. Yet the fast-food restaurant has failed to present in its submissions to the city any facts to show that this proposal will do so. In fact, its

application shows a business that has outgrown its property as it seeks to reduce its parking by four spaces (and add parking closer to the residential area south and east of my client's property), and include additional internal stacking that would utilize the access easement that is already overwhelmed by Chick-Fil-A customers waiting to order their food.

Granting this application will allow this fast-food restaurant to increase its intensity and continue to operate at the detriment of its neighbor and its tenants. Underscoring this is the applicant's failure to meet zoning code requirements for a major administrative adjustment set out in section 155-2421.E. For these reasons FedPom urges you to reject the application.

Section 155-2421.E.1.a. *The administrative adjustment achieves the intent of the subject standard to the same or a higher degree than the subject standard.*

The standard at issue is the requirement for 29 off-street parking spaces. The purpose underlying the code standards and regulations regarding off-street parking in section 155-5102.A. states that the standards "are intended to achieve city policies" that support "low impact development," among other things. The applicant's filings with the city includes no discussion or evidence to show that the reduction of the four parking spaces would support low impact development. In fact, the approval of the major administrative adjustment would enable a higher impact development than currently occurs at that location with less parking.

Section 155-2421.E.1.b. *The administrative adjustment is consistent with the comprehensive plan and advances the goals of [the] Code to the same or higher degree than the subject standard.*

There is nothing in the applicant's filings that explain how the cited comprehensive plan policies are met by this reduction in off-street parking spaces. More importantly, the cited provisions are not applicable in a quasi-judicial review of the major administrative adjustment application. Three of the four comprehensive plan policies cited by the applicant (Future Land Use policies 01.04.02. 01.07.05 and 01.07.09) address the obligation of the city to take specific actions regarding amending, updating and revising its land development regulations -- all legislative acts over which the Pompano Beach Planning and Zoning Board has no jurisdiction when in its quasi-judicial capacity.

The remaining Policy 01.14.01 (which implements Future Land Use Objective 01.14.00) states that the city shall emphasize re-development and infill that concentrates growth and intensifies land uses consistent with existing urban services and infrastructure. But the applicant fails to explain the connection between the application and the "Smart Growth" type initiatives, which promote energy-efficient development and the reduction of greenhouse gasses, as required in Objective 01.14.00. There is no evidence in the applicant's submittals to the city that shows that the addition of idling cars from the additional stacking lane is energy efficient and would reduce greenhouse gasses.

Section 155-2421.E.1.c. *The administrative adjustment imposes no greater impacts on adjacent lands that would occur through compliance with specific requirements of the code.*

The applicant seeks to reduce required off-street parking to allow the expansion of its drive-through stacking. Yet it fails to present any fact-based (competent substantial) evidence that its application will alleviate any stacking overflow into the easement that it shares with my client. And there is no evidence that the remaining 25 on-site parking spaces are adequate to serve this very busy fast-food restaurant, as stated in the submittals presented to the city by the applicant.

Section 155-2421.E.1.d. *The administrative adjustment provides one or more of ...[a ten-item list of] public benefits to an extent sufficient to compensate for the requested modification of the standard.*

There is nothing in the applicant's submittals to the city that addresses nine of the 10 items listed in this provision. The tenth item allows the Planning and Zoning Board to approve other benefits. The applicant claims that the major benefit is to my client, the other nearby businesses including FedPom tenants, and their customers who currently experience negative impacts from the high demands of the drive-thru restaurant and its customers. However, there are no facts presented in the submittals showing that this adjustment and the related extra stacking lane would be anything more than a very temporary, if any, solution to the problem caused by the applicant. There is no evidence in the submittals to the city that supports the applicant's assertions. For example, there is no circulation study of the site prepared by a traffic engineer to show how this site plan would address and resolve my client's concerns regarding how its tenants and their customers would be able to

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enter and exit their parking lot, N. Federal Highway or NE 24 Avenue/NE 22 Court.

The applicant has the burden to show compliance with all four of the requirements for approving a major administrative adjustment. It has not met that burden.

For these reasons, my client urges the Planning and Zoning Board to deny the Chick-Fil-A application for a major administrative adjustment.

Thank you for your consideration of this request.

Sincerely,


W. Tucker Gibbs

cc: FedPom Center, LLC