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**MEMORANDUM**

To: David Record, Development Services Director  
Jennifer Gomes, Asst. Development Services Director  
Lauren Gratzner, Planner

From: Rod A. Feiner, Esq. 

Date: October 20, 2021

Subject: Chick-Fil-A  
Address: 2250 N. Federal Highway  
Request for Minor Administrative Adjustment

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**General Background Applicable to All Criteria**

Paul S Wellens Revocable Trust and David Wellens Revocable Trust (collectively referred to as "Petitioner") is the owner of the +/- 0.88 acre parcel located at 2250 N. Federal Highway, which is generally located on the east side of N. Federal Highway approximately one hundred thirty five feet (135') south of NE 23<sup>rd</sup> street ("Property") in the City of Pompano Beach ("City"). The Property has a future land use designation of Commercial and is zoned B-3, General Business. The Property is currently developed with a +/- 3,876 square foot building that has been operating as a Chick-Fil-A restaurant ("Chick-Fil-A") since 2010. The existing Chick-Fil-A is accessed through a shared 2-way drive aisle with the parcel to the south.

Customers of the Chick-Fil-A restaurant can park in any of the twenty-eight (28) parking spaces located on the north side of the shared drive-aisle, within the Property, or can utilize the single drive-thru lane to order and collect their food. When the Property was initially developed Chick-Fil-A did not experience the same level of demand and success that is seen today. As such, many of the efficiencies that are considered when developing a new store were not accounted for in the initial design and development. For example, Chick-Fil-A is now known for its drive thru

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speed (averaging under one (1) minute from the time a customer places their order to pick-up) and utilizing a double lane drive-thru system for ordering. In addition, the design for a new store generally has stacking provided to accommodate thirty (30) or more vehicles at a given time without impacting adjacent drive-aisles.

This site was developed with single drive-thru lane. At the time of initial development this was sufficient to accommodate the drive-thru traffic for the restaurant without any impact on the adjacent properties. However, as mentioned previously, Chick-Fil-A has recently seen a surge in popularity and, due to the COVID-19 Pandemic, the drive-thru element of the use is being utilized much more than the restaurant. Thus, the current configuration of the drive-thru lane does not adequately meet the demands of this Chick-Fil-A location. As a result, vehicles attempting to utilize the drive-thru service have been overflowing into the shared drive aisle and obstructing circulation through the parking areas as well as to the businesses located on the parcel to the south. In an effort to improve the circulation and alleviate the stacking issue Petitioner is proposing to reconfigure the drive-thru to add a second lane for ordering, thereby allowing more cars to be stacked in the drive-thru lanes and out of the drive-aisles. However, the reconfiguration of the existing parking and circulation areas to accommodate a second drive-thru lane will result in the loss of two (2) of the required parking spaces. As a result, where the existing Chick-Fil-A requires twenty-eight (28) parking spaces only twenty six (26) parking spaces are proposed.

#### Request

Petitioner is respectfully requesting a minor administrative adjustment to allow a reduction in the amount of code required parking from twenty-eight (28) parking spaces to twenty six (26) parking spaces.

#### Specific Criteria

*(a) The requested Administrative Adjustment is not inconsistent with the character of development in the surrounding area and will not result in incompatible uses.*

The minor administrative adjustment is not inconsistent with the character of development in the surrounding area. The subject site is Zoned B-3 Commercial and a restaurant with drive thru lane is permitted in this Zoning District. In addition, Federal Highway is a commercial corridor where a restaurant is ideally located. Furthermore, the existing Chick-Fil-A restaurant has been developed in accordance with the plans and permits that were approved for the Property over ten (10) years ago. The character of the development is thus consistent with the surrounding area and it cannot be deemed an incompatible use when the use is permitted as a matter of right in the Zoning District.

In addition to the above, the minor administrative adjustment to allow less than the amount of Code required parking makes sense for this particular use. In recent years, and especially due to the COVID-19 Pandemic, the restaurant has seen a tremendous increase in drive-thru traffic with a corresponding decrease in the use of the dining room. In fact, for almost 2 years the dining room has been closed due to the COVID-19 Pandemic. Even if the dining room were to re-open

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the customer preference is for a drive-thru order and pickup. The requested minor administrative adjustment will allow the drive-thru to function more efficiently and better process the vehicles which are already queuing on site without the creation of any corresponding parking issues as there is actually a current excess of needed parking on the site.

*(b) Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practicable.*

Any adverse impacts resulting from the minor administrative adjustment will be mitigated to the maximum extent practicable. In fact, the whole reason for the minor administrative adjustment is to mitigate adverse impacts.

As mentioned previously, in recent years Chick-Fil-A has seen a tremendous increase in demand. When the Property was initially developed Chick-Fil-A did not experience the same level of demand and success that is occurring today. The proposed minor administrative adjustment will improve the circulation in the drive-thru and alleviate the stacking issue. The proposed reconfiguration of the drive-thru adds a second lane for ordering, thereby allowing more cars to be stacked in the drive-thru and out of the drive-aisles, and also creates a waiting area/escape lane for vehicles which order large or complex orders. This enables the drive-thru to function with greater speed thereby resolving the stacking issue.

In addition, while Chick-Fil-A is not proposing a shared parking agreement under the Code, it has contracted with a nearby parcel owner in order to secure twelve (12) parking spaces solely for the use of employee parking. As such, Chick-Fil-A employees will not be utilizing the parking spaces on the Property which results in a corresponding decrease in demand for on-site parking. The Code presumes that employees will park in the provided off street parking spaces. The twenty six (26) parking spaces will remain available to customers and will more than adequately meet the off-street parking demand for this restaurant. This is especially the case as Chick-Fil-A has seen a decrease in the use of its indoor dining restaurant.

*(b) The Administrative Adjustment is of a technical nature (i.e. relief from a dimensional or design standard) and is either:*

- 1. Required to compensate for some usual aspect of the development site or the proposed development that is not shared by landowners generally; or*
- 2. The proposed adjustment will provide an alternative which will achieve the purposes of the requirement through clearly superior design; or*
- 3. Proposed to protect sensitive natural resources or save healthy existing trees.*

The proposed minor administrative adjustment is of a technical nature, requesting 26 off-street parking spaces when 28 off-street parking spaces would be required.

In addition, the proposed minor administrative adjustment provides an alternative which achieves the purposes of the requirement through clearly superior design. In particular, Chick-Fil-A is

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proposing a modification to its drive-thru lane which will improve circulation through the drive-thru and alleviate the stacking issues which are currently being experienced at the site. The modifications which are proposed for the drive-thru are thus a clearly superior design to what is now existing and the design compensates for the unusually high demand which the drive-thru at this restaurant is experiencing.

Additionally, while demand for the drive-thru has increased Chick-Fil-A has experienced a decrease in use of the restaurant and many customers now solely use the drive-thru and no longer enter the restaurant. Thus, exchanging two required parking spaces for a drive-thru which improves circulation and which will also alleviate the stacking issues is a superior design which directly addresses the ability of the site to function properly.

Finally, the proposed site plan protects healthy and existing trees. Chick-Fil-A is not seeking to encroach into the mature tree canopy with its proposed drive-thru lane modifications. An alternative plan would have resulted in healthy and existing trees being sought for removal and the minor administrative adjustment preserves these existing, healthy, trees.

*(d) The Administrative Adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.*

The proposed minor administrative adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands and will not pose a danger to public health or safety. To the contrary, the minor administrative adjustment will allow for the reconfiguration of the drive-thru area in order to alleviate current issues associated with the overflow of vehicles utilizing the drive-thru service into the stacking lanes. While employees currently work to move vehicles as quickly as they can through the drive-thru area, with multiple people taking orders at car windows well outside of the drive-thru area if needed (this plan of operation will continue), the additional drive-thru lane will allow for greater stacking within the service area preventing the overflow of vehicles into the shared drive-aisle that commonly occurs today.

Chick-Fil-A employees will still be present to take orders for multiple customers at a time in order to ensure customers experience the drive-thru efficiencies they've come to expect. In addition, Chick-Fil-A will continue to use order runners to bring orders to the vehicles in the drive-thru lane which will alleviate congestion at the drive-thru pickup window which will decrease the stacking in the drive-thru lane.

All of what is being proposed is designed to improve the convenient and enjoyable use of adjacent lands while alleviating any potential danger to public health or safety. While the reconfiguration does result in the loss of two (2) parking spaces the loss of such parking spaces will not have any impact on adjacent parcels as Chick-Fil-A sees the majority of its business through the drive-thru. The twenty six (26) parking spaces provided will be sufficient to serve the off-street parking requirements of this use.

Further, while Chick-Fil-A is not proposing a shared parking agreement under the Code, it has contracted with a nearby parcel owner in order to secure twelve (12) parking spaces solely for the use of employee parking. As such, Chick-Fil-A employees will not be utilizing the parking

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spaces on the Property, thereby further decreasing the demand for these spaces. The twenty six (26) spaces will remain available to customers and is expected to more than adequately meet the demand for this restaurant.

*e. The Administrative Adjustment is supporting an objective from the General Purpose statements of the base zoning district where located in Section 155.3201, 155.3301, 155.4301 or within a Purpose statement of a Special Base Zoning District, a Planned Development Zoning District or an Overlay Zoning District.*

The minor administrative adjustment supports an objective from Section 155.3301.<sup>1</sup> The proposed modification will strengthen the city's economic base as it will allow for the existing Chick-Fil-A to improve circulation through the drive-thru and alleviate the stacking issue while still providing employment opportunities for residents. In addition, the proposed minor administrative adjustment ensures that a suitable environment is being created to protect from adverse incompatible uses. The minor administrative adjustment allows for the reconfiguration of the drive-thru area in order to alleviate current issues associated with the overflow of vehicles utilizing the drive-thru service into the stacking lanes. The change to the drive-thru will allow for greater stacking within the service area preventing the overflow of vehicles into the shared drive-aisle that commonly occurs today.

The minor administrative adjustment advances the goals of the Code to the same or higher degree than the subject standard. The B-3, general business, district is intended to accommodate a diverse range of moderate-intensity retail, service, office, recreation/entertainment, visitor accommodation, and institutional uses that serve the residents and businesses in the community at large (including restaurant uses). The Property is developed with a restaurant use that meets this intent of the B-3 zoning district. Further, the purposes of Section 155.5102. *Off-Street Parking and Loading* is, in part, to provide for adequate off-street parking while allowing the flexibility needed to accommodate alternative solutions. The minor administrative adjustment allows for an alternative solution to address the parking deficiency from the strict Code requirements while addressing a much needed improvement based on the demands of this particular restaurant use.

*f. The Administrative Adjustment is consistent with the comprehensive plan.*

The administrative adjustment is consistent with the comprehensive plan. The Property has a future land use designation of commercial which allows for a variety of business uses, including restaurants. The administrative adjustment will allow for the existing commercial use to improve operations on the Property and reduce current impacts to adjacent parcels. The administrative adjustment further the goals, policies and objectives of the Comprehensive Plan as follows:

- Policy 01.04.02 – *The City shall amend its land development regulations to reduce parking requirements for commercial uses along major corridors where it can be shown that pedestrian and transit amenities are provided, shared parking is provided, or sufficient public parking is nearby.* The Property is located along a major corridor (N. Federal Highway) with public transit stops in the immediate vicinity. The Petitioner has

<sup>1</sup> This is the only Section one of the listed Code Sections which is applicable to this property and project.

also entered into a private agreement with a nearby property owner which allows twelve (12) parking spaces to be used offsite for their employees so that the twenty five (25) parking spaces on site can be used exclusively by customers.

- Policy 01.07.05 – *Through ongoing updates to the land development regulations revise the existing off-street parking provisions of the Code considering, shared parking, parking space size, compact spaces, parking rates by uses, etc.* As noted above, Petitioner has also entered into a private agreement with a nearby property owner which allows twelve (12) parking spaces to be used offsite for their employees so that the twenty five (25) parking spaces on site can be used exclusively by customers.
- Policy 01.07.09 – *Through ongoing updates to the land development regulations revise parking codes and design criteria to include incentives for mass transit use and other transportation alternatives that don't require parking spaces.* The Property is located along a major corridor (N. Federal Highway) with public transit stops in the immediate vicinity.
- Policy 01.07.10 – *Through ongoing updates to the land development regulations revised parking codes to allow for parking space credit for onsite accommodations for transportation options that do not require parking.* The Property is located in close proximity to the public transit system.

In addition, the administrative adjustment advances the goals of the Code to the same or higher degree than the subject standard. The B-3, general business, district is intended to accommodate a diverse range of moderate-intensity retail, service, office, recreation/entertainment, visitor accommodation, and institutional uses that serve the residents and businesses in the community at large (including restaurant uses). The Property is developed with a restaurant use that meets this intent of the B-3 zoning district. Further, the purposes of Section 155.5102. *Off-Street Parking and Loading* is, in part, to provide for adequate off-street parking while allowing the flexibility needed to accommodate alternative solutions. The minor administrative adjustment allows for an alternative solution to address the parking deficiency from the strict Code requirements while addressing a much needed improvement for the drive thru lane based on the demands of this particular restaurant use.

The existing Chick-Fil-A restaurant has been developed in accordance with the plans and permits approved for the Property over ten (10) years ago. Although unforeseen at the time, Chick-Fil-A has become so successful over the years that the demand for their food has sky-rocketed. While some patrons choose to be seated inside the restaurant to enjoy their food, the majority of Chick-Fil-A customers decide to use the drive-thru service. Over the year, Chick-Fil-A has created unparalleled efficiencies in their drive-thru service, with customers obtaining their food, on average, less than one (1) minute after ordering. These efficiencies allow Chick-Fil-A to move vehicles through their drive-thru areas at a high rate of speed. Unfortunately, the older locations, such as the restaurant operating on the Property, have not been designed to meet the current needs and efficiencies. This has resulted in vehicles to overflow from the drive-thru lanes into the drive aisle that is shared with the parcel immediately south of the Property, creating issues for customers attempting to reach the businesses to the south. Petitioner has been working

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closely with City staff in order to create a solution that addresses the existing issues and concerns from neighboring property owners, while ensuring additional problems will not be created. By adding a second drive-thru lane, vehicles that are currently stacked into the shared drive aisle can be accommodated in a separate drive-thru lane on the Property. While the reconfiguration results in the loss of four (4) parking spaces, Petitioner has worked to ensure adequate parking will remain on-site for customers by contracting with a nearby property owner for employee parking.

While the Chick-Fil-A restaurant has been developed in accordance with development standards in effect at the time of the approval, and any approved site plans and permits, Petitioner understands the concerns raised by the adjacent owner, and is working to be a good neighbor and alleviate an issue that was not anticipated at the time of approval. Petitioner has recognized the concerns of the neighboring businesses and has been working closely with City staff in order to develop a plan to address these concerns. Although the resulting plan will reduce parking by four (4) spaces, it will ultimately be a major benefit, not just to Chick-Fil-A, but to the neighboring property owner and businesses that are currently experiencing negative impacts from the high demands of the drive-thru service. As such, the administrative adjustment will provide a major benefit to other businesses and its customers that will sufficiently compensate for the reduction in four (4) parking spaces.

Should you have any questions or require supplemental information related to the above requested administrative adjustment, please do not hesitate to contact me.

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