

Amy E. Souchuns
asouchuns@hssklaw.com

January 6, 2022

Planning & Zoning Commission
Town of North Haven
5 Linsley Street
North Haven, CT 06473

Re: Chick-fil-A, Inc.
560 Universal Drive North

Dear Commission Members:

On behalf of Chick-fil-A, Inc. (“CFA”), I am writing to request clarification of Condition 1.d. (“Condition 1.d”) of the September 24, 2021 Site Plan approval. That condition provides that an updated plan set be submitted with certain revisions, one of which reads as follows:

A note on the cover sheet of the drawings indicating that this approval is for a “managed” drive thru system and that whenever the drive thru is operating there must be a minimum of one designated “traffic director” and one additional drive thru assigned employee outdoors at all times.

During the public hearing, CFA explained that the drive thru would not always operate with both lanes functioning – for example, in the morning hours when only a single, traditional lane was necessary due to lower customer numbers. Additionally, CFA highlighted that the dual queue could not function without employees outside, as there would be no means by which drivers in the outside lane could place orders and pick up food without employees coming to the vehicle.

Based upon this testimony, the motion to approve reflected that understanding, with Commissioner Guilietti stating: “as long as they are using the second lane, if are using two lanes,” Chairman Carlson then added “at all times” and the motion was approved as modified. At the conclusion of the hearing and vote, CFA believed, consistent with the motion itself, Condition 1.d required the two employees at all times when the drive thru was operating with both lanes – in other words, only at the times when the drive thru functions as a “managed” system, not when it operates in a traditional manner with a single lane.

In conversations with Mr. Fredericksen in connection with an application for building permit, it is his position that Condition 1.d requires two outdoor employees at all times the drive thru is operating, regardless of whether operations are single or dual lane times. As described during the public hearing, there may be off-peak hours when the drive-thru is operating with a single lane, thereby leaving the second lane as an available full-width bypass lane and negating the need for employees outdoors.

Therefore, CFA respectfully requests that the Commission clarify and revise this condition in a manner consistent with the discussion at the public hearing and in the approval motion. CFA's proposed modification to Condition 1.d is to add the word "managed" to the existing language:

This Site Plan Approval includes a "managed" drive-thru system. Whenever the **managed** drive-thru system is operating, there must be a minimum of one designated "traffic director" and one additional drive thru assigned employee outdoors at all times.

In connection with this request, we have enclosed a transcript of the referenced parts of the September 13 public hearing, with relevant passages shown in italicized text. The video of the hearing can be viewed at <https://vimeo.com/604809153>. The specific discussions of the drive thru operations at off-peak times and management of the lines can be found at 1:13-1:16 and 1:27-42 of the recording, with the motion and vote beginning at 3:19.

Thank you for your consideration.

Sincerely,



Amy E. Souchuns

Enclosure

Planning & Zoning Commission, North Haven
Regular Meeting Via Zoom Videoconference and Conference Call
September 13, 2021

Members Present:

Vern E. Carlson - Chairman, Richard E. Silson - Vice-Chairman, Theresa Ranciato-Viele - Secretary, James J. Giulietti, Brian Cummings, Roderick Williams - Alternate, Paul J. Weymann - Alternate

Members Absent: Joseph M. Solimene - Alternate

Others Present: Alan A. Fredericksen - Land Use Administrator, J. Andrew Bevilacqua - Town Engineer, Jennifer Coppola - Town Counsel, Pam Miller - Clerk

Mr. Carlson, Chairman, opened the meeting at 7:06 p.m.

4. #P21-20 Site Plan Application of Chick-fil-A, Inc. & Bombino LLC, Applicants, Bombino LLC, Owner, relative to 560 Universal Drive North (Map 21, Lot 10). Plan Entitled: Proposed Chick-fil-A Drive-Thru Improvements. Prepared by: Bohler. Dated: 8/20/2021. Scale 1"=20'. IL-80 Zoning District

Starting at 1:13

AES: The queues are going to operate more successfully with this and there is that safety valve in the event there was, somebody needed to get out.

Member: Let me understand that. So, if there is somebody that needed to get out, you're saying that people on site could move the two lanes closer to the building to let somebody, to effectively be a third lane, to get around them?

AES: Exactly. And that's exactly what Joey designed in the plan, it's 25 feet from building to edge of pavement and so, again, as we've talked about this with all of the staff over the last couple of months about how to make this work, that was one of the things, just making sure there is sufficient pavement with, that if anybody needed to get around that, there is some space for you know, some shift.

Member: Let me just ask the question of our professionals, Andy and Alan, you guys are good with this, it has the ability to handle the drive-thru, the by-pass to make that be the by-pass, that works for you guys?

A. Bevilacqua: Yea, I, Andy Bevilacqua here, it's just an unconventional drive-thru, that's my report, it really comes down to how well it operates out in the field, so it's hard to follow the normal rules we would have to have a dedicated by-pass and it does make sense that you've got

people out there they're walking up and down the drive-thru lanes, they're available to people if there was a problem.

Member: Well that's what I think though are we always going to have enough people out there to make sure that somebody can control this? Effectively, if you're going to have two lanes, you have to have other people come out just to be in the outside lane right

AES: The expectation, so the expectation would be that it's managed, if there is an off-peak window, um, you know, 9 o'clock in the morning when the store reopens for breakfast, there's probably not going to be the kind of queues that you would normally experience at 2 o'clock on Saturday, so you would have in an off-peak situation you would basically have a traditional drive-thru with people using the, what I call the inner lane closer to the building to place their order, pick up, etc. But at any time where this is where actually are going to need the extended queuing, it's going to be a managed system.

A. A. Fredericksen: This is Alan, I have some concerns about it and it's more of a situation of being consistent with other drive-thrus in town and I've been through the drive-thru from time to time and I've marveled at its operational efficiency. I think it does work. I never had an emergency and had to bail out of the line. I'm a little uncomfortable if it is approved just as it is and there's not some, at least some mention that it is a manned drive-thru or some other term that we can arrive at for it, just would kind of differentiate it from someone coming into you six months from now and saying, well, you didn't make Chick-fil-A do that.

Member: So effectively we should be saying that there has to be people out there manning this drive-thru I mean because otherwise if there aren't people out there, it won't have a true bypass.

~~~~~

### ***Starting at 1:27***

V. Carlson: Joey, would you stay there. I just have a couple of questions for you. I'd like to address. When the cars are waiting, after they placed their order way back over by the queuing over by the kiosk, after they make the turn and they get around and their order is not ready where do they stop and park? To the extreme north of the site and wait there? Or is there somewhere else? I know that McDonalds and Burger King have a much wider area and they have a spot that they can pull off and extremely out of the way. This seems like it's almost going to be cutting off a lane. I'm not sure.

J. Fonesca: Sure I can answer that. From my knowledge from what I've seen and certainly from other sites. So what happens is if there is a really large order and the operations can handle this differently and I'm not sure how Sara will handle it, but one option is that they can leave the drive-thru and park at one of the stalls in front of the store and then get the meals delivered to them. We have a car full of kids after soccer and they're all ordering shakes and it's going to be a long wait there, they can wait there, direct them to go to the front of the store and then deliver the meal. The other part of this, having team members out there on site, they are now able to

kind of push that car forward enough in the drive-thru lane to allow cars to queue up and deliver their meals and then maybe if they need to exit out that other lane and get around them, there's options there. I think typically they would have, if they know it's a large order and they know it's going to delay meals being delivered behind that vehicle they would traditionally get them to exit the drive-thru lane, park in front of the store or any space that is open and then get them their meal.

V. Carlson: That would take care of it of course but it's a bit of a hike from there to the exit to delivery but now one more point I'd like to talk about is down at the pinch point there. How much room can you open that up? How much room do you have there you could really use to open that up?

J. Fonesca: I believe that's about 15 feet that exists today. What we're proposing is a 24 foot width there.

V. Carlson: Ok, and what do you have, 16? Is that what you said?

J. Fonesca: I believe it's about 15, yea, 14 to 15 so another ten feet.

V. Carlson: Yea, that seems like it would help. Isn't the end result, is there going to be an escape lane there? An escape area someplace here? Before you, when you make that turn, or not? Or is that something

J. Fonesca: No, and I think we've discussed that tonight. *With the team members being out there, being able to allow them to push cars together in the event of an emergency to be able to get a car to, again, essentially there's going to be 24 feet at that turn as you turn left toward the pick-up window but that lane the jumps to 25 feet so there's another foot there and then again if the team member is there getting cars closer to the building and getting cars closer to each other that will certainly open a lane there to get someone out if there is an emergency. Again, this is just during a peak time. Off peak, that inside lane is the only lane that is open to have meals delivered and you'll have essentially a 12 foot bypass there.*

V. Carlson: I know what you're saying Joe. I've been down looking at the site and I guess you certainly do have off peak time but not too often. You know, it's a pretty busy site and that's why I was asking you about the car hanging up in there. I guess you can get them out of there. I guess so. It's working. It will work more efficiently once we do widen that up I'm sure.

J. Giuletti: Well, well, this is Jim Giuletti. It's a double-edged sword. If I understand what you're saying, you're going to widen it up but then have a continuous two lines and you're going to have people come from inside the store to bring the food to people on the outside when they can't get it handed through the window, correct?

AES: correct.

J. Giuletta: So the way that you're proposing that you'll have an effective by-pass is by your bodies, your people being out there and if an emergency comes up them going to all of the cars and saying, move the heck over so somebody can get out and around. Right?

AES: Exactly.

~ *Overtalking* ~

AES: Let me have Sara talk a little about the operational experience because with the pandemic she's obviously had a lot of experience and can talk through some of these issue with you.

Sara: So, I'd just like to clarify what we call,

Female: Hold on hold on, you need to state your full name.

Sara: Universal Drive, North Haven

Female: I'm sorry, I didn't get the name and spell your last name.

S. Gaudiano: Gau d as in dog, iano

Female: Thank you.

S. Gaudiano: So I just want to clarify what an outside person who is out in the meal delivery zone which is outside the drive-thru window does. There is a door, however when you go outside for shifts, I'm going to take today for example because I was working today, you are outside for a set number of hours outside as an expediter. You're not coming inside and outside. You're outside the entire time. When you're traffic director, you're not coming inside and outside. Your shift is outside. You are directing the traffic. So that means I can tell you from the time we start going outside and let's say this is typically 11:30 through the entire rest of the day, there are multiple people outside. We never come inside. During the pandemic for the past, let's say 440 days we've been outside everyday with the exception of Sundays, Christmas and Thanksgiving. So there has never been a day when we were not outside. Folks aren't coming inside and outside, they are outside. So just during the mealtime, it's not like you're just coming inside to get a meal then walking back outside. Someone is handing you the meal through the drive-thru window and you're handing it to the vehicle in the designated meal delivery zone.

J. Giuletta: This is Jim Giuletta. That means, I want to understand something. I thought now there was going to be two continuous lanes, one up against the window and one that's not up against the window.

S. Gaudiano: Correct.

J. Giuletta: Not up against the window, how they going to get their food?

S. Gaudiano: When you're running two lanes, there would never be someone physically driving their car to the window. A person, currently, you actually stop about a car length from the window so you're moving back and forth, there is a car length from the window that you navigated in the meal delivery zone so you're still carrying the food to the person in lane one, the closest lane. When you're running two lanes, they are not driving up to the window to get their food. No one,

Member: but somebody has to come from inside to outside.

S. Gaudiano: They are positioned outside the entire shift.

Member: How does he get the food?

S. Gaudiano: Through the drive thru window sir. They hand it to them.

Member: But there's going to be an outside lane that's not up against the window, right?

S. Guadiano: Correct.

Member: How are they getting the food? The food has to come from inside. How are they getting the food if they are not up against the window? Am I missing something?

AES: The person that is expediting the order to the second lane is getting the food from the drive-thru window.

Member: So the person outside physically goes up to the drive-thru window, gets the food and brings it over to the second lane?

AES: Yes

Member: Is that right? Sorry, you're shaking your head

AES/S. Gaudiano: Yes

Member: So the food is coming from inside but the person doesn't go inside and walk back outside but somebody outside is going to the window and walking over to the other lane, is that right? Ok, so those outside people don't come inside, they just go to the window and bring the food over.

AES: Yes, and Sara, just to clarify for the commission members, that's a separate person than the traffic person?

S. Gaudiano: Correct.

Member: So getting back to, and God bless you if that works, super. *My concern is we got to make sure that there is an ability to when those lanes are full and like everybody here, I've been*

*there and everything is full, good for you, great for you, that mean whenever we're going to use both lanes, I think we've got to make a requirement somebody has to be outside. You have people outside but I think we're going to have to, to me, because we have to make sure if anyone else complains, hey you didn't have a bypass for these other people, to effectively have a bypass, you have to have a traffic person that because you're wide enough, you can move the traffic over. That's just my comment on what I think I'm hearing.*

*AES: Correct and just to be clear on the record, we would accept that. That's inherently part of our application. We would accept that as a condition of approval and one of the comments was also in the town engineer's memo about what would happen if we went back to a traditional layout. I think that happens like I said off peak, potentially but practically speaking aside from the fact that if we did go back to a traditional layout that outer lane doesn't function because you can't get food or orders to those people so either it's managed because we need to be able to access that second lane practically or it's a traditional and now you have a really really big bypass lane.*

V. Carlson: Right. Let me just ask you a question if I can. Now, on a normal shift, how many people do you have outside taking orders at the kiosk or walking through? It seems they were walking everywhere taking orders on the ipad?

AES: Sara, can you address that?

S. Gaudiano: Sure, this Sara Gaudiano. I'm going to say a minimum of four a maximum of seven or eight.

V. Carlson: Ok, so how many people do you have there directing traffic?

S. Gaudiano: So, you can have anywhere between two people up to four or five people doing meal delivery with a traffic director.

V. Carlson: Ok, so all I'm trying to figure is out what would we have to say, you have a minimum of two people doing traffic out there to make this function. You can't function with this, what you're laying out without two people doing traffic and it doesn't make any difference really how many people are taking orders as long as the traffic keeps flowing but we have to put a number on the traffic on the people doing traffic because that's the key to the whole thing. If the traffic isn't flowing, it does not work.

S. Gaudiano: I might argue that even if you had one person doing meal delivery and four order takers and there was a real issue, there's not much difference between one order taker putting down their ipad running around the corner and helping direct traffic. That's not honestly unusual that that would happen at a Chick-fil-A. That, that's the kind of course of action, so I would just put that comment out there. I mean everyone is talking to each other, we're all connected. Hey there's an issue over here, Bob, drop your ipad run around the corner we got to get this I mean, we do broken vehicles, cars on fire, I mean

Member: Yea those sorts of things.



V. Carlson: I got that, but we're going to have to put a number on things if in fact we're going to approve this. We have to have a number.

J. Giuliatti: This is J. Giuliatti: I finally get what they're telling me. *What they're telling me is if they're going to use the outside lane they've got to have people outside because that's the only way they can get them food. We can tell them that they have to have people but they're telling us they're going to have people anyway because otherwise they couldn't give them food. Vern, I don't disagree with you. I think we should say if both lanes are going to be used, they've got to have some people out there for traffic. But what they're saying is its no big deal because they have to anyway otherwise.*

V. Carlson: *As long as we put a number on it because if somebody else comes in, we have to have a number.*

J. Giuliatti: *I get it. Yea, but if they don't use the outside lane, they don't need it.*

Member: *That's true.*

AES: *I would, I would say that we have, that it could be worded that if we're operating a managed drive-thru system and I think that's an easy way to describe it, that we have a minimum of one traffic director which is what Sara was explaining is someone who is always a designated traffic director and at least one other employee outside. I think practically speaking as she just described there's always going to be more because you have those people but I think if you wanted some comfort, you know, we're obviously going to have the traffic director and then one other employee is always going to be out there whether it's for ordering or for food delivery whatever, plus that person.*

J. Giuliatti: *Ok, that works for me.*

V. Carlson: Ok. What, just, maybe just one question. We spoke before about the people taking the orders, people in the kiosk, people delivering them across the traffic and the people doing traffic, and you said these are trained people. Where do they get trained?

**Ending 1:42**



**Starting at 3:18**

V. Carlson: Ok, one more that we have to do here might take a little time is Chick-fil-A. 21-20. This is something I'm going to have to look at a little bit. We have the kiosk. We have the canopy and we have the traffic flow. So, Jim you were in on this.

J. Giuliatti: They explained it. I get it. I'm not thoroughly comfortable with it. We have an engineer who tells us he sees it, that it can work, the emergency thing, I'm worried about people

being out there but they're already out there. And they've been out there for a long time. So, they're trying to address our concerns. It's a big enough drive-thru. I would make a motion that we approve it.

V. Carlson: They've got to have two people out there

J. Giulietti: I'll make a motion to approve it. That *as long as they are using the second lane, if are using two lanes, they have to have two personnel out there, a traffic person and at least one other person to direct cars in case there is a need for by-pass.*

V. Carlson: *At all times?*

J. Giulietti: *At all times.*

V. Carlson: Ok. Good. That's good Jim. I have a motion, can I get a second to that motion?

T. Ranciato-Viele: I'll second that motion.

V. Carlson: Ok.

R. Wilson: Aye

J. Giulietti: Aye

T. Ranciato-Viele: Aye

B. Cummins: Aye

V. Carlson: Aye

**Motion passed 5 – 0.**