

Explanation and Justification of Request Chick-fil-A 05587 Lehigh Acres Administrative Deviation

Summary of Request

This is a request for the following administrative deviations:

1. **Deviation 1** requests relief from Table 1 of LDC Section 10-285, *Connection Separation*, which requires a minimum connection separation distance of 330 feet on minor arterial roadways in Future Urban Areas where the posted speed limit is less than 45 miles per hour, to allow for a minimum connection separation distance of 119 feet for the proposed access located on Homestead Road N.
2. **Deviation 2** requests relief from LDC Section 34-1353(e)(1), *Convenience Food and Beverage Stores, Automotive Service Stations, Fast Food Restaurants, and Car Washes*, which requires landscaping adjacent to rights-of-way external to the development project to be located within a landscape buffer that is a minimum 25 feet in width, to allow for a landscape buffer that is a minimum width of 15 feet and a maximum width of 25 feet (as depicted on the Alternate Proposal Plan) with enhanced plantings consisting of trees a minimum of 16 feet in height and a min. 4 inch in caliper at time of planting, and a double staggered hedge row a minimum of 36 inches in height at time of planting.
3. **Deviation 3** requests relief from LDC Section 34-1353(e)(2), *Convenience Food and Beverage Stores, Automotive Service Stations, Fast Food Restaurants, and Car Washes*, which requires for projects with an open drainage system, an undulating berm with a maximum slope of 3:1 must be constructed and maintained at a minimum height of two feet as measured from the grade of the parking lot, to allow for no berm to be required.

Development Location

The subject property is ±1.82 acres in size and located north of Homestead Road N., at the northwestern corner of the intersection of Homestead Rd. N and Ashlar Ave. The property is zoned C-2 – Commercial District and is designated Intensive Development on the Future Land Use Map (FLUM) and is located with the Lehigh Acres Planning Community.

The property is abutted on the north (across Ashlar Ave.) by a church, on the south (across Homestead Rd. N.) by commercial uses, on the east by commercial use and a church a parking lot, and on the west by medical offices zoned C-2. Please see the table below for zoning and existing land uses surrounding the property.

	Zoning	Existing Land Use
North	C-2	Across Ashlar Ave., Iglesia Hermanos En Cristo Lehigh.
South	C-2	Across Homestead Rd. N., O'Reilly Auto Parts.
East	C-2	Across Ashlar Ave., parking lot for Victory Church, JR Appliances and Mattress.
West	C-2	MD Now Urgent Care.

Justification

Connection Separation

The project has frontage along Homestead Road N., an arterial road that provides access to the subject property and other surrounding C-2 districts. The existing access to the site is approximately 33 feet from the access to the adjacent property to the north and approximately 330 feet from the intersection of Homestead Road and Ashlar Avenue. The proposed access has been located to make the best use of the proposed layout and facilitate the safe flow of vehicles through the site, as well as those entering and exiting via Homestead Road N. The proposed development includes a right turn lane from Homestead Road to the site to allow vehicles entering the site to decelerate without impeding vehicles within the travel lanes. The new access point provides the greatest separation possible from both the existing access to the property to the north and the intersection of Homestead Road North and Ashlar Avenue. The proposed development has been designed to incorporate a stub-out to the property to the north to allow for cross access if the adjacent parcel is redeveloped. The proposed access point is compatible with the surrounding commercial uses; is located like existing points of access found in the surrounding area; and is consistent with the health, safety, and welfare of abutting landowners and the general public.

Street Right-of-Way Buffer Landscaping

Article VII, *Supplementary District Regulations*, provides specific requirements for fast food restaurants that include street right-of-way buffer landscaping requirements (LDC Section 34-1353). LDC Section 34-1354(3) allows for “*Commercial or industrial zoned properties less than three acres in size may obtain administrative relief from Sections 34-1352 and/or 34-1353 to facilitate new development or redevelopment. Development of these sites will be limited to development that will bring the site into greater compliance with Sections 34-1352 and 34-1353 given existing site constraints such as location and configuration of existing buildings, parking areas, drainage, easements and/or other conditions.*”

The subject property is zoned C-2 and constrained by the irregular shape of the parcel, having three front yards by being adjacent to the north, south, and east to right-of-way, and utility easements along Homestead Road N and Ashlar Avenue. In addition, a right-hand turn lane is required within Homestead Road N. There is not enough right-of-way, so a portion of the required sidewalk will be on the subject property. The property has also been developed without street right-of-way buffer landscaping along both Homestead Road N and Ashlar Avenue. The proposed development will provide right-of-way buffering, bringing it into greater compliance with the LDC. Due to the site constraints and the proposed street right-of-way buffer landscaping bringing the site further into compliance with the LDC, Deviations 2 and 3 can be requested and reviewed administratively.

The applicant is proposing to redevelop the site with a Chick-fil-A fast food restaurant. Chick-fil-A is a high demand restaurant and the drive through facilities see extensive use. The requested

reduction in buffer width allows for the design flexibility needed to design the site to locate and utilize dual drive through lanes that can accommodate significant stacking to ensure there are no impacts to the surrounding roadways and minimizes the interaction between the drive through facilities and guests dining in to ensure internal pedestrian safety, while meeting the LDC required parking standards.

LDC Section 34-1353 requires landscaping adjacent to the external rights-of-way a minimum of 25 feet in width. There is a 6-foot utility easement adjacent to the project's frontage along Ashlar Avenue and Homestead Road. The requested buffer width is sufficient to ensure the health and viability of the proposed plantings and locates the plantings outside of the adjacent utility easement. To meet the purpose and intent of the LDC landscaping requirements and ensure the proposed development does not adversely impact adjacent land uses, the landscaping will be enhanced via the use of trees and shrubs taller than what is required at the time of planting. In addition to the enhanced plantings proposed within the perimeter buffers, there are areas where there is additional width and plantings outside of the required perimeter landscape buffers (as depicted on the landscape plans submitted as part of DOS2024-00061).

Please see the table below for additional details regarding the proposed buffering adjacent to right-of-way.

	Required	Provided
Trees	Min. 14 ft. in height and Min. 3.50 in. caliper at time of planting.	Min. 16 ft. in height and Min. 4 in. caliper at time of planting.
Shrubs	Min. 24 in. in height at time of planting and maintained at a minimum of 36 in. in height within one year of planting.	Double staggered hedge row min. of 36 in. in height at time of planting.

Decision Making Criteria

In accordance with LDC Section 10-104(b), *Criteria for administrative deviations*, the data and analysis provided in the enclosed application demonstrates the following:

- b) *Criteria for administrative deviations*. Administrative deviations may be granted only where the following criteria have been met:

- 1) **The alternative proposed to the standards contained herein is based on sound engineering practices (not applicable to Sections 10-352, 10-353, and Division 7 of Article III of this chapter);**

The alternative proposed is based on sound engineering practices and will not be a detriment to the health, safety and welfare of the general public.

- 2) **The alternative is no less consistent with the health, safety, and welfare of abutting landowners and the general public than the standard from which the deviation is being requested;**

The proposed alternative is consistent with the health, safety and welfare of abutting landowners and the general public. The surrounding area is developed with commercial uses that utilize similar access spacing without issue. Internally, the site has been designed to utilize the appropriate amount of stacking to ensure vehicles are not stacking on Ashlar Ave. or Homestead Rd. N. The drive-through and accesses have been designed to route vehicles away from parking areas to facilitate pedestrian safety. The proposed street right-of-way buffer landscaping utilizes enhanced plantings to create an aesthetically pleasing streetscape that provides adequate screening.

- 3) For Division 7 of Article III of this chapter, the required facility would unnecessarily duplicate existing facilities;**

Not applicable.

- 4) The granting of the deviation is not inconsistent with any specific policy directive of the Board of County Commissioners, any other ordinance or any Lee Plan provision;**

The granting of the proposed deviations is not inconsistent with any specific policy directive of the Board of County Commissioners or any other ordinance or any Lee Plan provision. Similar deviations have been approved throughout the County without any issue to the surrounding area.

- 5) For Sections 10-352 and 10-353, the utility that would otherwise serve the development cannot provide the service at the adopted level of service standard due to an inadequate central facility; and**

Not applicable.

- 6) For Sections 10-329(f) and 10-418(4), the proposed use of hardened structures for restoration of existing lake bank slopes will be evaluated on a case-by-case basis. The application for the hardened structure must demonstrate this is the most appropriate and minimum stabilization technique necessary as designed and sealed by a licensed professional engineer. The application must also demonstrate compliance with Section 10-418(3) for compensatory littorals as well as previously approved littoral and deep lake management plan requirements. However, existing lakes within the DR/GR may not utilize hardened structures through the administrative process.**

Not applicable.