

From: Nathan J. Wautier
Sent: Monday, January 23, 2017 3:39 PM
To: Stouder, Heather
Subject: Letter in Support of Amending Section 28.061 and 28.151

Heather,

I submit the following in support of the amendment to the zoning code allowing the limited use of drive-thru windows in the TSS District.

The TSS District is one of six mixed-use and commercial districts in the City of Madison (listed in order of development intensity, they are: LMX, NMX, TSS, MXC, CC-T and CC). Currently, drive-thrus are allowed in MXC, CC-T and CC as a conditional use. The proposed amendment would add drive-thrus in the TSS district (albeit with additional requirements) and subject to Plan Commission approval as a conditional use.

The proposed zoning text amendment will require any approved drive-thru located in the TSS district to be under the building and require the building to have commercial or residential uses along the primary street frontage. These restrictions ensure future development within TSS will be restricted beyond the other mixed-use and commercial districts in furtherance of the less intensive nature of the TSS district. The conditional use aspect of the zoning text amendment also ensures Plan Commission approval of any proposed drive-thru in a TSS district. If approved, this zoning text amendment will allow greater flexibility for creating viable mixed-use projects with ground floor commercial businesses and the Plan Commission an opportunity to review the creative projects this flexibility would encourage.

Unfortunately, knee-jerk opposition to this amendment was sent in the past twenty-four hours erroneously characterizing this amendment as an attack on multi-modal transportation and the City's historic districts. As noted in the opposition email, the email was being sent without a full understanding of why the amendment is being proposed and without specific examples of why a drive-thru is incompatible with multi-modal transportation or historic districts.

The zoning code does not currently make a policy connection between the existence of cars and the destruction of historic districts.

To that end, TSS, like NMX (a less intensive district) and MXC (a more intensive district), are districts having a stated purpose to "encourage pedestrian, bicycle and transit use as a means of accessing and moving through mixed-use centers." The more intensive CC-T and CC have similar goals to "encourage transformation into mixed-use corridors that are equally conducive to pedestrian, bicycle, transit and motor vehicle activity."

In adopting the zoning code, the Plan Commission found the aforementioned goals to be compatible for drive-thru windows as a conditional use in the MXC district which has the same quoted language as TSS as well as for CC-T and CC. The Plan Commission also found these quoted goals to be compatible with, auto body shops, auto repair stations and auto service stations as each is allowed in the NMX, TSS, MXC, CC-T and CC zoning districts as a conditional use (car washes are also allowed as conditional uses in TSS, MXC, CC-T and CC). Private parking

facilitates are also a conditional use in each of these districts and public parking facilities are a permitted use.

Presumably, the Plan Commission also found these goals and these auto-related uses compatible with historic districts as the City's Historic districts have many zoning district classifications within them, including each of the six zoning districts discussed in this email. Fortunately, just like all conditional uses, to the extent a drive-thru window is proposed in a historic district (regardless of the underlying zoning district) it would be subject to the same review process as any other project and both the Landmarks Commission and Plan Commission could opine prior to any conditional use being granted on any impact such conditional use may have on the historic integrity of the district.

Rather than discourage creativity in proposing future mixed-used projects, I encourage the Plan Commission to approve the amendment as proposed and provide itself the opportunity to decide whether a drive-thru is warranted as a conditional use when concrete projects are submitted in the future.

Best regards,

Nathan

Nathan J. Wautier

Reinhart Boerner Van Deuren s.c.

[Redacted]

Legal Secretary: Sarah Becker [Redacted]

