



PREPARED FOR THE PLAN COMMISSION

Proposal: **Zoning Text Amendment**

Legistar File ID #: [81965](#) (Drive-Throughs) and [81966](#) (Demolition Standards)

Prepared By: Planning and Zoning Staff

[81965](#) – This proposal amends various zoning code sections related to vehicle access sales and service windows, also known as drive-through or drive-thru windows. It also clarifies current application of the code regarding when compliance with current zoning code provisions is required, and it adds a new threshold for full compliance with automobile infrastructure requirements in the Transit Oriented Development (TOD) overlay.

Alder sponsors expressed interest in revising requirements for drive-throughs because requiring drive-throughs to be under building was not resulting in the sufficiently camouflaged drive-throughs in dense developments that were desired by policymakers. An under-building location is one of several drive-through location options in the CC-T, RMX, TE, DC, and UMX zoning districts and the only allowable drive-through location in the TSS zoning district and in the TOD overlay district. This amendment changes “under the building” to “fully under an occupiable conditioned story.”

The amendment also prohibits drive-through only establishments. Allowing establishments which were only accessible to drivers and bicyclists was identified as an equity concern and counter to community goals regarding discouraging development that is exclusively car dependent and automobile oriented. Establishments with drive-throughs must also provide access to pedestrians. Options could include a walk-up window or a service area inside the building.

The code amendment also does two things regarding nonconforming existing site conditions: it clarifies existing application of the code when a new principal building is proposed or new elements are added to a site, and it adds a new threshold for when full compliance with the automobile infrastructure provisions in the TOD overlay is required.

When a new principal building is proposed on a site, the zoning code requires full compliance with the zoning code since this is considered a full site redevelopment. Additionally, if not otherwise exempted in the zoning code, new site elements are required to meet current code requirements. Language is added to the code to provide more clarity about these longstanding applications of the code.

Additionally, a new threshold is added to the TOD overlay. When there is an addition of 50% or more building floor area to a principal building, compliance with all requirements related to automobile infrastructure is required. Alders requested the addition of a threshold of site changes that would require compliance without preventing reinvestment and reuse of buildings on sites that were developed in compliance with the zoning code in place at the time of their development. Staff believes that a major expansion of 50% or more of building floor area would be a reasonable threshold that would balance community interests.

An example of a site that would require major redevelopment and reinvestment to meet current TOD overlay requirements is West Towne Mall. The site is currently car-oriented with a significant amount of automobile infrastructure located between buildings and primary and secondary streets. Changes in tenants and additions of less than 50%, like the addition for Von Maur, would continue to be allowed. However, a major expansion or new principal building will require compliance with the TOD overlay automobile infrastructure requirements.

Lastly, some cleanup and clarification of drive-through requirements is included in the amendment as listed below.

Summary of all changes included in the amendment:

- Changes “vehicle access sales and service window” to “drive-through window” throughout the code to make it easier for property owners, developers, and residents to find information about drive-throughs in the zoning code.
- Clarifies that when there is a new principal building in the TOD Overlay, any existing nonconforming automobile infrastructure must be brought into full compliance.
- Adds that when there is a major expansion (50% or more of building floor area) of a principal building in the TOD Overlay, any existing nonconforming automobile infrastructure must be brought into full compliance.
- Clarifies that when there is nonconforming automobile infrastructure in the TOD Overlay, all new automobile infrastructure must comply and there can be no increase in the nonconformity of existing automobile infrastructure.
- In the TOD Overlay, changes “under the building” drive-through window requirement to “fully under an occupiable conditioned story.”
- In the supplemental regulations for drive-through windows, changes “under the building” to “fully under an occupiable conditioned story.”
- Removes specific distance for drive-through ingress and egress and instead allows Traffic Engineering to evaluate and determine the appropriate distance. Traffic Engineering has their own more nuanced standards which can better handle the variety of sites and uses with proposed drive-throughs.
- Removes screening requirements in the Supplemental Regulations. This is already required by the Landscaping and Screening Requirements under MGO 28.142 (8), so this is a duplication in the code.
- Adds a requirement that all establishments with drive-throughs must also allow pedestrian access to the establishment. Drive-through only establishments would no longer be allowed. Pedestrians could be served through a walk-up window or a walk-in service area.
- Clarifies how to treat lawful nonconforming site conditions. They may continue in their existing condition. However, no increase in the nonconformity of the site condition is permissible, unless otherwise allowed within the zoning code.
- Clarifies that the drive-through window use does not include all drives on a property that a vehicle may travel through to reach the window. Drive-through window means the service window/door and the immediately adjacent drive.

- Clarifies that car washes are not considered drive-through windows. The car wash use in the code anticipates that most car washes are driven through and has specific, different requirements for the use.

Staff supports this amendment.

[81966](#) – This proposed ordinance adds a new demolition approval standard in response to a request by the Plan Commission. In order to best weigh demolition requests for buildings or sites with historic significance or value (as determined by the Landmarks Commission), the Plan Commission would like to consider how the proposal relates to the implementation of the City’s adopted plans.

Staff supports this amendment.