

**From:** [Bannon, Katherine J](#)  
**To:** [Zoning](#)  
**Subject:** FW: 81875 ZBA Appeal - additional comments  
**Date:** Thursday, February 15, 2024 4:05:35 PM

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**From:** Rummel, Marsha <district6@cityofmadison.com>  
**Sent:** Thursday, February 15, 2024 3:47 PM  
**To:** McReynolds, Amber <AMcReynolds@cityofmadison.com>; Smith, Kate <kmsmith@cityofmadison.com>; Knox Jr., Isadore <district14@cityofmadison.com>  
**Cc:** Bannon, Katherine J <KBannon@cityofmadison.com>  
**Subject:** 81875 ZBA Appeal - additional comments

Dear ZBA members-

Both sides of this timeliness issue have focused on past events for picking a ZA determination date. I was reviewing the Zoning Code last night and I would like to add a future date for the ZBA's consideration in deciding the meaning of a ZA decision or determination.

MGO 28.202(2)(a) provides one of the ZA's duties is to issue all zoning certificates.

MGO 28.202(3)(e) requires a zoning certificate to be issued for any change in use.

Clearly, adding a conditional use such a vehicle access sales and service window is a change in use. (In 2009 the addition of an outdoor eating/drinking area required a zoning certificate, per the ZA, because it was a change in use. See document #5 of Legistar 15038. Though this matter was decided under the old zoning code, the current zoning code contains the same requirement.)

When the ZA issues a zoning certificate, the certificate is required to state that the use complies with all provisions of the Zoning Code. This act of the ZA is the ZA's final decision/determination in connection with a change in use requiring conditional use approval. If this is the final date of a decision or determination, then our appeal is from an interim decision of the ZA. Our appeal would be akin to the appeal allowed last year, Legistar 76608, when a developer appealed to the ZBA after issuance of a UDC staff report and UDC meeting and about 8 months before the Plan Commission meeting on the developer's conditional use request.

Thank you for your service and consideration-

Marsha Rummel