



Date: September 20, 2023
To: Planning and Zoning Board
Through: Natalie Lewis, Deputy City Manager
Nana Appiah, PhD, AICP, Development Services Director
Mary Kopaskie-Brown, AICP, OPPI, CIP, Planning Director
From: Rachel Nettles, Assistant Planning Director
Subject: Mesa Zoning Ordinance text amendment (**Drive-Thru Facilities**)- Proposed amendments to Chapter 5, 6, 7, 8, 31, 58, 86, and 87 of Title 11 of the Mesa City Code

RECOMMENDATION:

Staff recommends that the Planning and Zoning Board provide a recommendation that the City Council adopt the proposed Mesa Zoning Ordinance Drive-Thru text amendments.

PURPOSE AND BACKGROUND:

As requested by the City Council, over the past two years, Staff has been conducting outreach and research related to Drive-thru Facilities. This included, but was not limited to, a review of City’s current zoning regulations, research of best practices and regulations from surrounding jurisdictions, and discussions of alternatives with stakeholders. Based on this effort, Staff is recommending certain text amendments to the Mesa Zoning Ordinance (MZO) related to Drive-thru Facilities.

Details of the proposed text changes are attached in Exhibit 1 (2023 Amendments to the Tables in Zoning Ordinance, Title 11, Chapters 5, 6, 7, 8, and 58 pertaining to Drive-Thru Facilities and Pick-Up Window Facilities) and Exhibit 2 (Drive-thru Text Amendment Ordinance). The specific affected chapters are Chapters 5, 6, 7, 8, 31, 58, 86, and 87 of the Mesa Zoning Ordinance (MZO).

The proposed changes:

- (1) Modify the land use review process for Eating and Drinking Establishments with Drive-thru Facilities in the Neighborhood Commercial (NC), Planned Employment Park (PEP), Light Industrial (LI), General Industrial (GI), and Heavy Industrial (HI) zoning districts;
- (2) Modify the definition of Drive-thru Facilities and add land use classifications for Pick-up Window Facilities and Drive-up ATM/Teller Window; and

- (3) Establish development standards for Pick-up Window Facilities and Drive-up ATM/Teller Window and modify development standards for Drive-thru Facilities.

The proposed changes are intended to address the unique impacts Drive-thru Facilities have on the surrounding community, including visual, lighting, traffic, odor, and noise impacts. The proposed changes, including the revised development standards, are designed to address common nuisance issues associated with drive-thrus including requiring an onsite traffic and stacking study and amending the stacking requirements to address traffic issues associated with drive-thrus.

Screening and buffering requirements are also revised to help protect the surrounding communities, especially residential developments, from the impacts of Drive-thru Facilities. Critically, the proposed changes allow the City Council to review proposed drive-thrus in certain zoning districts to ensure they comply with the review criteria for a Council Use Permit in Section 11-70-6 of the MZO. This review criteria includes analyzing whether the proposal will advance the goals and objectives of the General Plan; whether the size, design, and operating characteristics of the proposal are consistent with the zoning district in which it is located; and whether the proposal will be injurious or detrimental to surrounding properties and communities.

Requiring a Council Use Permit in certain districts, and the revised development standards, will conserve and promote the public health, safety, and welfare by helping to ensure these facilities are appropriately designed and located and that nuisances and adverse impacts of these facilities on the surrounding communities are mitigated.

SUMMARY OF THE AMENDMENTS AND EXPLANATION:

- 1) Modify the land use review process for Eating and Drinking Establishments with Drive-thru Facilities in the Neighborhood Commercial (NC), Planned Employment Park (PEP), Light Industrial (LI), General Industrial (GI), and Heavy Industrial (HI) zoning districts.*

Discussion:

Currently, the Zoning Ordinance allows Drive-thru Facilities in the Limited Commercial (LC), General Commercial (GC), Planned Employment Park (PEP), Light Industrial (LI), and General Industrial (GI) Districts.

In the Neighborhood Commercial (NC), Mixed Use (MX), Downtown Business-2 (DB-2), and Heavy Industrial (HI) Districts they require a Special Use Permit (SUP) and in the Downtown Business-1 (DB-1) require a Council Use Permit (CUP).

Staff Recommendation:

Staff reviewed the specific purpose of all these districts and based on the intent of the districts, Staff is recommending that Drive-thru Facilities require a CUP in the NC, PEP, LI, GI, and HI Districts.

Neighborhood Commercial District

Per Section 11-6-1 of the MZO, the purpose of the NC District is to provide areas for locally oriented services and development with strong pedestrian networks which serve the immediate

neighborhood within ½ to two miles. The NC District is meant to be integrated into the fabric of the surrounding neighborhood and therefore allows for lower intensity commercial uses that are less impactful to nearby residents.

Requiring a CUP in the NC District will allow City Council to consider, among other criteria, whether the proposed drive-thru design and operations are appropriate for its setting and not harmful to the surrounding area.

PEP, LI, GI, and HI Districts

Chapter 7 of the MZO states that the general purpose and intent of the employment zoning districts are to designate land for industrial, office, and research and development uses. The various employment district are intended for employment generating uses which range in intensity from business parks, warehousing, manufacturing, and heavy industrial processing. Commercial activities are described as allowed on a limited scale to support other activities. This is further supported by the Employment character area designation of the General Plan which uses the employment zoning districts as the primary zoning districts to fulfill the intent of providing for a wide range of employment activities in high-quality settings. Commercial uses are described as secondary uses that may be allowed to support the overall intent of the character area.

Requiring a CUP in the employment zoning districts will allow City Council to consider, among other criteria, whether the proposed use is appropriate for its setting and consistent with the purpose of the zoning district and the General Plan.

2) *Modify the definition of Drive-thru Facilities and add land use classifications for Pick-up Window Facilities and Drive-up ATM/Teller Window.*

Discussion:

When evaluating the City’s current standards for Drive-thru Facilities, staff recognized the inherent differences between certain facilities and their impacts. By creating separate land use classifications for Pick-up Window Facilities and Drive-up ATM/Teller Windows, staff was able to create specific development standards and regulate them differently and, in some cases, allow them by right.

Staff Recommendation:

Staff recommends that existing definition of Drive-thru Facilities be modified and a new definition for Pick-up Window Facilities and Drive-up ATM/Teller Windows be created to account for this difference.

Below are the proposed definitions for Drive Thru-Facilities, Pick-up Window Facilities, and Drive-up ATM/Teller Window.

Drive-thru Facilities. Establishments providing, goods, food, or beverage through a window to patrons remaining in an automobile, where an order menu board is present, and orders are placed on site via an order menu box or via an employee taking orders from patrons remaining in an automobile.

Pick-up Window Facilities. Establishments providing goods, food, or beverage through a window to patrons remaining in an automobile, where orders are placed by patrons before reaching the establishment, and where no order menu board, order menu box, or employee taking orders from patrons remaining in an automobile are present. An establishment with parking spaces designated for pick up orders are not included in this definition.

Drive-up ATM/Teller Window. Banking and financial institutions that provide a driveway approach for automobiles to serve patrons remaining in an automobile, including stand-alone automated teller machines, automated teller machines attached to a building or structure, and service windows on a building or structure.

3) Establish development standards for Pick-up Window Facilities and Drive-up ATM/Teller Window and modify development standards for Drive-thru Facilities.

Discussion:

In conjunction with the changes discussed above, MZO Section 11-31-18, Drive-Thru Facilities, will be repealed and replaced with a new MZO Section 11-31-18, Drive-thru Facilities and Pick-up Window Facilities. The new section will include:

- (1) General development standards for both Drive-thru and Pick-up Window Facilities;
- (2) Requirements for an on-site circulation and stacking study for Drive-thru Facilities;
- (3) Stacking requirements for Drive-thru Facilities, Pick-up Window Facilities, and Drive-up ATM/Teller Windows;
- (4) Screening and buffering requirements; and
- (5) Employee protection requirements for drive-thrus that have employees taking orders outside.

Several of the proposed development standards already exist in the current MZO and were reorganized and some of the words modified slightly for clarity and consistency.

Staff Recommendation:

Staff recommends the following new proposed standards organized by topic.

General Requirements - Section 11-31-18(B)

- References to pick-up lanes and drive-up lanes were added to capture that requirements apply to Pick-up Window Facilities, Drive-up ATM/Teller Windows and Drive-thru Facilities.

Onsite Circulation and Stacking Study - Section 11-31-18(C)

- Requirement for an Onsite Circulation and Stacking Study for Drive-thru Facilities was added.
- This study will describe the operations of the Drive-thru Facility in terms of business hours, method by which orders are placed, average service time, arrival rates, and anticipated stacking analysis.

- Based on this study, modifications to the MZO development standards related to stacking may be requested.

Stacking Requirements - Section 11-31-18(D)

- A minimum 50-foot stacking distance was added between the entry of the drive-thru lane/pick-up lane to a street access driveway or cross access drive aisle to address potential overflow onto public streets and onsite circulation. This mimics the City’s requirement for a 50-foot setback of cross-access drive-aisles and parking spaces from a street driveway access.
- A minimum 100-foot stacking distance was added specific to Pick-up Window Facilities, requiring 100 feet between the pick-up window and the entry to the pick-up window lane.
- A minimum 40-foot stacking distance was added for Drive-up ATM/Teller Windows from the ATM/Teller window to the entry of the queuing lane.
- An allowance for modifications to the stacking requirements of Section 11-31-18(D) was added. Modifications may be considered upon evidence from the onsite circulation and stacking study that the proposed stacking is sufficient to meet the demands of the proposed development.

Screening/Buffering Requirements - Section 11-31-18(E)

- Two alternative treatments were added for when site conditions prevent a drive-thru lane or pick-up lane from not being located parallel to an arterial roadway.
 - The first method involves providing the previously required 40-inch screen wall; however, in addition, additional landscaping must be provided.
 - The second method involves providing an architecturally integrated awning, canopy, or trellis system that covers the entire drive-thru lane or pick-up lane as well as additional landscaping. The second method requires less additional landscaping than the first method since more screening is accomplished through the architectural treatment.
- A 100-foot setback was added from a drive-thru lane/pick-up window to a residentially zoned property or residential use. This requirement ensures buffering between uses and helps mitigate the impacts of these facilities on neighbors. Modifications to the base standards may be considered and approved by the Planning Director if evidence from a sound study demonstrate that noise can be mitigated through other treatments.

NEIGHBORHOOD PARTICIPATION PLAN AND PUBLIC COMMENTS:

A series of public outreach events and efforts occurred during the creation of the proposed text amendments. Below is a summary of outreach efforts and related participation.

Event	Date
City Council Study Session	February 24, 2022
Planning & Zoning Board	March 23, 2022
Development Advisory Board	April 2022
Public Meeting #1 (virtual)	June 29, 2022

City Council Study Session	July 11, 2022
Public Meeting #2 (virtual)	September 21, 2022
Public Meeting #3 (In-Person)	September 27, 2022
One-on-One Meetings	Multiple
Public Meeting #4 (In-Person/Virtual)	November 1, 2022
Focus Group #1 (In-Person)	January 12, 2023
Focus Group #2 (Virtual)	January 17, 2023
Public Meeting #5 (In-Person and Virtual)	January 30, 2023
City Council Study Session	May 25, 2023
Public Meeting #6 (In-Person)	September 6, 2023

City staff presented and discussed the proposed amendments several times with stakeholders through various platforms as is shown in the above table. Throughout the process stakeholder comments and feedback were considered and alternatives were presented to address stakeholder comments while accomplishing City goals. For example, the proposed text amendments were modified to address opposition and concern related to prohibiting drive-thrus in the NC district; requiring a CUP in the LC district; and regulating the concentration of drive-thrus at street intersections and within group commercial centers.

Stakeholders continued to express concern in general for any modification to the existing regulations. Stakeholders stated that other jurisdictions were relaxing their regulations while Mesa was looking to increase theirs. Stakeholders also expressed the desire to use design standards to address potential impacts rather than limit the number of facilities at a particular location.

In response staff has researched other jurisdictions regulations and spoke to their staff. Staff did not find that other jurisdictions were relaxing their regulations; however, the research did provide valuable insight into how Drive-thru Facilities are regulated in the Valley. These proposed amendments attempt to align Mesa’s regulations with those of surrounding jurisdictions, provide design standards to better regulate facilities, and better comply with the intent of Mesa’s zoning districts and General Plan designations.

ABILITY TO REQUEST A WAIVER OF THE “DRIVE-THRU LAWS”:

Section 9 of the Ordinance provides that an owner of real property who claims that their rights to use, divide, sell, or possess, and that the fair market value of, their real property was reduced by the enactment or applicability of the newly enacted land use laws applicable to Drive-thru Facilities contained in Section 1 of the Ordinance (“Drive-thru Laws”) may request a waiver of the Drive-thru Laws on their specific parcel. For clarification purposes only, the “Drive-thru Laws” do not include the laws applicable to Drive-up ATM/Teller Windows or Pick-up Window Facilities in Section 1 of the Ordinance or the development standards in Section 2 of the Ordinance.

Section 9 sets forth who can request a waiver and the requirements for a waiver request (including the deadline for submitting a request and the specific information that must be included). If a waiver is granted, the owner is granted the right to use the specific parcel in compliance with the Mesa Zoning Ordinance as if the Drive-thru Laws were not adopted. For example, an owner of a specific parcel zoned Neighborhood Commercial (NC) or Heavy Industrial (HI) on the effective date of the Ordinance would be required to obtain a Special Use Permit (SUP) as set forth in the

Mesa Zoning Ordinance as it existed immediately prior to the effective date of the Ordinance, but would not be required to obtain a Council Use Permit (CUP) as set forth in the Drive-thru Laws. A Waiver automatically terminates when the specific parcel is rezoned. A Waiver does not limit or prevent, with a rezoning, a development agreement, and does not alter or effect an existing development agreement, that restricts or prohibits certain land uses including Drive-thru Facilities.

ATTACHMENTS:

Exhibit 1 – 2023 Amendments to the Tables in Zoning Ordinance, Title 11, Chapters 5, 6, 7, 8, and 58 pertaining to Drive-Thru Facilities and Pick-Up Window Facilities

Exhibit 2 – Drive-thru Text Amendment Ordinance

Exhibit 3 – Public Comment in Support

Exhibit 4 – Public Comment in Opposition