



MEMORANDUM

PLANNING DIVISION
DEPARTMENT *of* COMMUNITY *and* NEIGHBORHOODS

To: Planning Commission

From: Nick Norris, Planning Director
Michaela Oktay, Deputy Planning Director

Date: July 22, 2022

Re: Initiating a zoning text amendment related to drive throughs in the CSHBD Sugar House Business District

At the July 13, 2022 Planning Commission meeting, the Planning Commission asked for a summary of the drive through regulations as they relate to the Sugar House Business District for the purpose of discussing whether the land use is appropriate in the area. This memo discusses drive through regulations and how the use is regulated in the CSHBD zoning districts. Motions are provided at the end of the memo if the Commission decides to act.

Drive Throughs: A drive through is a defined land use in the zoning code and are typically associated with restaurants, financial institutions, and coffee shops. A drive through is allowed in specific zoning districts if the use is listed in the land use tables in the zoning code and are listed with a “P” for permitted or a “C” for a conditional use. If a “P” or a “C” is not present on the line for the specific use, it is prohibited.

Drive throughs have specific regulations listed in 21A.40.060 of the Zoning Code. This includes stacking land standards on-site circulation standards, noise regulations, and pedestrian access. There are also standards that require findings related to adverse impacts related to litter, hours of operation, noise and light pollution, traffic circulation, adequate area for safe stacking and maneuvering, and adequate buffers. However, these standards are generally written in a subjective manner and don't include objective standards

CSHBD Sugar House Business District

The CSHBD zoning district includes two subdistricts: CSHBD1 and CSHBD2. CSHBD1 is more intense in nature and allows taller buildings. It is located primarily along 2100 South from 1300 East to about 900 East. CSHBD2 allows the same land uses but permits a lower building height. It is generally mapped on the north side of 2100 South and on the edges of CSHBD1 to the west and north of the CSHBD1. The purpose of the zoning district reads:

The purpose of the CSHBD Sugar House Business District is to promote a walkable community with a transit oriented, mixed use town center that can support a twenty-four (24) hour population. The CSHBD provides for residential, commercial and office use opportunities, with incentives for high density residential land use in a manner compatible with the existing form and function of the Sugar House master plan and the Sugar House Business District.

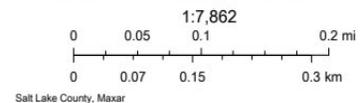
The question raised by the Planning Commission is if there are allowed land uses that create conflicts with the purpose statement, with a specific mention of drive throughs associated with restaurants. It

is known that a specific restaurant with a drive through is creating impacts to the public right way, including blocking the sidewalk and contributing to congestion on 2100 South. The vehicle congestion contributes to decreased air quality and creates hazards for people using the sidewalk and crossing 2100 South. The map below shows the Sugar House Business District Zoning. The car icon indicates current locations of businesses that contain drive through windows and includes restaurants, pharmacies, and financial institutions.

Sugar House Business District Zoning



8/3/2022



Drive Throughs are listed as a permitted use in the CSHBD1 and CSHBD2 zoning districts when associated with financial institutions and restaurants. Permitted uses only require a building permit if the use complies with all zoning requirements. Given the known impacts in the CSHBD zoning districts, Planning Commission can initiate a petition to consider whether drive throughs should be allowed in these two zoning districts, allowed as a conditional use, or prohibited. A use should be listed as permitted if it is consistent with the purpose statement of the zoning district and the Sugar House Community Plan. A use that may create some negative impacts but is consistent with the purpose of the district and goals of the adopted plan may be considered as a conditional use. A use that either is not consistent with the purpose of the zoning district or the goals of the applicable adopted plan or that creates impacts that can not be reduced should be prohibited.

Considerations

1. **Planning Staff Workload:** The planning staff is currently working on a number of city initiatives that are priorities for the Mayor and/or the City Council or that have been initiated by the Planning Commission. The major initiatives include:

- Affordable Housing Incentives
- Accessory Dwelling Units
- Ballpark Station Area Plan and zoning amendments
- Northpoint Small Area Plan
- Downtown Building Heights and Street Activation
- Homeless Resource Center regulations and approval process
- 300 West Corridor Plan and zoning changes
- Urban Forest Action Plan
- Landscaping requirements (or something like this)

The Planning Division also anticipates needing to allocate some staff resources towards initiatives that are pending a decision by the City Council. These include:

- RMF 30 Code Changes
- Shared Housing (SRO)
- FB-UN3 zoning district
- Fleet Block rezoning
- Early Engagement code updates
- Updates to the Parking Regulations

In addition, the Planning Division is preparing to start the following additional initiatives as any of the above projects are adopted.

- Adoption of Life on State plan and zoning changes along the State Street Corridor
- Adaptive Reuse Code changes to promote preservation of historic buildings
- Expanding housing types allowed in mixed use and commercial zoning districts
- Map amendments to implement the Westside master plan and convert M-1 zoning near neighborhoods to allow housing to be built on properties where it is currently prohibited.
- Updates to the landscaping regulation to promote water conservation

Additionally, the Planning Division is required to process land use applications, some of which have mandated processing times under federal or state code. Furthermore, under Utah Code a land use applicant that has a complete application can request a decision within 45 days of the application being deemed complete. This requires some level of prioritization for processing land use applications.

1. **Required Resources:** The primary resource required to accomplish this proposal is staff time. The Planning Division tracks staff hours required to process each type of application. This is done by having some Senior, Principal, and Associate planners track the time spent processing each step of the process and taking an average. Time is not tracked for all applications, rather it is a sample that is taken every 3-4 years. A zoning text amendment takes approximately 92 total staff hours to complete. It is anticipated that this text amendment would likely take the average amount of time because this is a focused proposal, and would only involve a single community council. This amendment would likely not require a lot of research of best practices. It will likely require some data collection and field observation work.

Other required resources include the cost to notice early engagement, public hearings, and the cost of conducting public meetings. These costs will be negligible due to the relatively narrow focus of the noticing requirements.

2. **Planning Commission Agenda Impacts:** Given the relatively narrow scope, it is not anticipated that this proposal will result in a significant impact to the workload of the Planning Commission. This would be dependent on the level of controversy.
3. **Stakeholder Input:** Stakeholder input would involve effected property owners, nearby neighbors, Sugar House Community Council, and likely owners of existing drive throughs or property owners who are interested in establishing a drive through facility. It should be noted that there is a strong likelihood that some industry related stakeholders would be involved. In the past, industry stakeholders have been opposed to regulations that are perceived to limit drive through restaurants. In fact, within the last 10 years the Utah Legislature prohibited cities from adopting or enforcing regulations that required drive through restaurants to serve customers who are not in vehicles when the drive through was open. This was in response to a Salt Lake City zoning regulation that was adopted in 2014, which allowed drive-through restaurants to serve customers regardless of how they arrive at the restaurant.

Initiating a Zoning Text Amendment

The Commission has the authority to initiate a zoning text amendment. To do so, the item must be posted as a potential action item on an agenda advertising a public meeting during which the commission must vote on initiating the amendment. The vote requires a majority of the commission present to pass.

Once initiated, the Planning Division will work on identifying an available staff member who can process the proposal. After that, the staff planner will begin processing the petition. The process will include drafting a proposal, holding a 45-day public input period, and a public hearing with the Planning Commission. It may also include a briefing with the Planning Commission if issues are identified, and input or direction are needed from the Planning Commission..

To help the Planning Commission, the following motions are provided:

Motion to Initiate the petition:

I move that the Planning Commission initiate a petition to amend the text of the zoning code as it pertains to land uses that include drive throughs in the CSHBD zoning districts to determine if the uses are compatible with the purpose of the zoning district and to make necessary modifications to ensure the purpose of the district is implemented as it relates to drive throughs.

If the commission does not wish to initiate a petition, there is no need to make a motion, but the commission may decide to. The motion to not initiate a petition is below”

I move that the Planning Commission not initiate a petition to modify the land use tables for land uses that include a drive through in the CSHBD zoning district.