

Midway City Council
6 February 2024
Regular Meeting

Ordinance 2024-04 /
Commercial Drive-Throughs



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: January 16, 2024

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment of Section 16.13.39: Off-Street Parking and Loading

ITEM: 14

Midway City is proposing an amendment to Chapter 16.13.39: Off-Street Parking and Loading. The proposed amendment would prohibit the creation of new drive-through windows in Midway.

BACKGROUND:

Midway City is proposing an amendment to the City's Municipal Code in the Land Use Chapter, Title 16. The proposed code would prohibit the creation of new drive-throughs in the city. Currently, the land use code does not contain anything that prohibits drive-throughs. It also does not contain any minimum requirements for drive-throughs. A recent application for a restaurant, that includes a drive-through window, highlighted the need to have some criteria in place to address whether drive-throughs are allowed, and if so, minimum requirements to help mitigate negative impacts and safety concerns.

Recently, other communities have considered prohibiting or have prohibited drive-throughs. The most recent is the Sugarhouse neighborhood in Salt Lake (see attached articles).

There are a several reasons why cities have prohibited drive-throughs. They create congestion, drive-throughs discourage walking, and visits to neighboring businesses. They also can create safety issues with cars blocking sidewalks and vehicles stacked out on public roads. The constant car engine idling creates more air pollution for the valley, which is a visual and safety issue. They also create a land use scenario that promotes more pavement and spacing between structures and detracts from the aesthetic appeal of a community. Drive-throughs also detract from a “village” feel that Midway is trying to maintain. The Midway General Plan creates a vision for a safe, walkable small town with a village feel. Drive-throughs do not help us create that vision.

At the planning commission meeting on April. 12, 2022, planning staff presented a modification to the Off-Street Parking and Loading section of the land use code that would create minimum criteria for allowing a drive-through. In that meeting, the planning commissioners discussed whether drive-throughs should even be allowed in Midway. The result from that discussion was a motion of continuance that advised staff to bring back language that prohibits new drive-throughs in Midway. The motion from that meeting was as follows:

Motion: Commissioner Garland: I make a motion that we recommend continuance of an amendment to Chapter 16.13.39: Off-Street Parking and Loading. The proposed amendment would create requirements for commercial uses with drive-through windows. Come up with code that prohibits all businesses from having a drive thru.

Seconded: Commissioner Simons

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Wardle, Garland and Simons

Nays: Ream

Motion: Passed

In response to that, staff proposed language that would prohibit new drive-throughs in Midway during the City Council meeting on May 3, 2022. The item was continued in that meeting so items such as gas stations and store side pickup could be evaluated as being considered drive-throughs. After further consideration, gas stations and store side pickup would not be considered as drive throughs and would not be prohibited by the proposed code.

There are several existing drive-throughs in Midway (Grand Valley Bank, Judy’s Doughnuts, Market Express Gas Station, FILL’ER UP Coffee, Midway City Offices, Keller Williams next to Lupita’s), only some of which are currently in use (Grand Valley Bank, Judy’s Doughnuts, FILL’ER UP Coffee, and Midway City Offices). If a prohibition on drive-throughs is adopted, some existing drive-throughs would become non-conforming. The proposed use and alteration of those drive-throughs would be governed by the city’s non-conforming code for buildings and uses (16.26.8).

The following language (in red) is proposed to address the desire to prohibit new drive-throughs:

16.13.39 Off-Street Parking and Loading

M. Commercial Drive-throughs Prohibited

The creation of new commercial drive-throughs in Midway is prohibited in all zones. All drive-throughs that legally exist on the date this code goes into effect may continue as allowed elsewhere in this title.

POSSIBLE FINDINGS:

- New commercial drive-throughs would be prohibited in all zones.
- Lawfully existing drive-throughs would be considered non-conforming and would be allowed to continue as outlined elsewhere in the land use code.
- Prohibiting drive-throughs may discourage certain commercial uses that rely upon the convenience of drive-throughs.
- Drive-throughs create congestion, drive-throughs discourage walking, and visits to neighboring businesses.
- Drive-throughs create safety issues with cars blocking sidewalks and vehicles stacked out on public roads. The constant car engine idling creates more air pollution for the valley, which is a visual and safety issue.
- Drive-throughs create a land use scenario that promotes more pavement and spacing between structures and detracts from the aesthetic appeal of a community.
- The Midway General Plan creates a vision for a safe, walkable small town with a village feel. Drive-throughs do not help create that vision.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Garland: I make a motion that we recommend approval for an amendment to Chapter 16.13.39: Off-Street Parking and Loading. The proposed amendment would prohibit the creation of new drive-through windows in Midway. We accept the findings in the staff report.

Seconded: Commissioner Wardle

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Cliften, Wardle and Garland

Nays: Ream

Motion: Passed

ALTERNATIVE ACTIONS:

1. Approval. This action can be taken if the City Council finds that the proposed language is an acceptable amendment to the City’s Municipal Code.
 - a. Accept staff report
 - b. List accepted findings

2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again

3. Denial. This action can be taken if the City Council finds that the proposed amendment is not an acceptable revision to the City’s Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

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Drive-thrus are creating problems for cities and towns

NEW YORK — America is a land of drive-thrus.

An estimated 200,000 drive-thrus are spread across this country. Americans visit drive-thru lanes approximately 6 billion times a year. Leading chains like McDonald's, drive-thrus account for 70% of sales or more.

Drive-thrus promise hungry drivers ease, convenience and a juicy burger. But long lines of cars waiting for orders spill out into U.S. roads in every state from chains like Chick-fil-A, McDonald's, Starbucks and Dunkin' Donuts. And city officials, urban planners and critics say the model is failing modern cities.

Magnets of traffic and congestion, drive-thrus discourage walking, public transit use and visits to neighboring businesses. They also lead to accidents with pedestrians, cyclists and other cars, and contradict the environmental and livability goals of many communities.

A host of cities and regions want the sprawl to stop: Atlanta lawmakers will vote this summer on whether to ban new drive-thrus in the popular Beltline area. Minneapolis; Fair Haven, New Jersey; Creve Coeur, Missouri; Orchard Park, New York, and other cities have banned new drive-thrus in recent years. Some cities in Southern California, such as Long Beach in 2019, have passed temporary moratoriums blocking new developments. Restrictions have also been considered in Pittsburgh, Pennsylvania and Mesa, Arizona.

Drive-thrus don't "support any of the life and vitality and amenities that suggest people might want to come live, work or play in a neighborhood," said David Dixon, an urban places fellow at design and planning firm Stantec. "Drive-thrus belonged to a much more auto-centric world."

Land of the drive-thru

Drive-thrus first appeared in California in the 1950s, according to the Smithsonian. An early Jack in the Box was a hit with kids, who could order their meal through the head of a clown.

The eat-in-your-car model expanded on American roads during the following decades as highways were built, suburbs spread, and new fast-food chains like McDonald's and Wendy's popped up.

Drive-thrus became a lifeline for chains during the COVID-19 pandemic, as restaurants shut down indoor seating areas. Drive-thru sales hit \$133 billion in 2022, an increase of 30% from 2019 pre-pandemic levels, according to Technomic, a restaurant industry consulting firm.

Shake Shack and Sweetgreen opened their first drive-thru locations during the pandemic, while Taco Bell, Chipotle and other chains opened stores that serve drive-thru customers exclusively.

Companies switched to drive-thru models because they are more profitable: smaller than sit-down restaurants, requiring less staff and maintenance.

They make the most sense in car-centric areas, and there are many drive-thrus positioned far from pedestrian or bicycle traffic. But drive-thrus are often located in the "exact worse place for them to be" for road safety, said Eric Dumbaugh, a professor in the department of urban and regional planning at Florida Atlantic University who studies traffic safety.

They are often intentionally placed along higher-speed arterial roads — busy roads that carry cars from around a region at high speeds — to grab drivers' attention.

This means that if there's a pedestrian or biker in an intersection or sidewalk, drivers have less time to brake, increasing the chances of an accident. Drivers moving along arterial roads also typically focus on the road and the cars around them, and less likely to be on the lookout for pedestrians.

Drive-thrus can also be hot spots for rear-end collisions and T-bone accidents from cars turning left out of driveways.

Companies "aren't paying any attention to the safety considerations of their design decisions," said Dumbaugh. And local governments pay lip service to pedestrian safety but still permit these uses in arterial roads, he said.

More lanes, more congestion

Companies say they are changing their drive-thrus by adding more car lanes and technology such as AI to speed up orders and reduce potential problems.

Starbucks told CNN that it is conscious of the communities its stores are in and "introducing the right type of store for the needs of that community." Starbucks is testing different store models in different areas such as pickup-only stores, curbside pickup from cars and drive-thrus.

But chains trying to address congestion by adding more lanes just encourage more cars to come. Accidents are so common that personal injury lawyers around the country specifically advertise to people injured at drive-thrus. Experts say pedestrian safety can be improved by tightly managing access along arterial roads and locating drive-thrus away from them.

Drive-thrus also do not support neighboring businesses, Dixon of Stantec said, as people typically just grab their food and drive off.

A better, safer fast-food model in these areas are restaurants and bars with sit-down options that contribute to walkable neighborhoods, he said, or on the first floor of multi-floor buildings.

Cities push back

Atlanta city councilman Jason Dozier proposed a bill this year to block new drive-thrus around the Atlanta Beltline, a pedestrian trail along a 22-mile railroad corridor. Atlanta's city council is expected to vote on the bill in August.

Dozier's bill was in response to pedestrian fatalities in the area.

Since 2015, 14 pedestrians have died and 47 have been seriously injured in car accidents around the Beltline area, he said. More than half those deaths occurred in last two years.

"It's a very scary time for pedestrians in the city," Dozier said. "We need to make sure we can design communities around pedestrian safety."

In Sugar House, a neighborhood in Salt Lake City, the planning commission proposed a ban on new drive-thru development in business districts after residents complained drive-thrus were blocking sidewalks, bike paths and driving lanes on streets.

"It puts the vehicle front and center. It goes against the master plan of Sugar House to promote a walkable, mixed-use town center," said Levi Thatcher, chair of the Sugar House Transportation Committee.

Charlotte has struggled with clogged roads from cars spilling out into the streets from Chick-fil-A and other fast-food drive-thru lanes during peak hours in recent years.

"Our love of waffle fries is leading to even bigger traffic woes on busy Charlotte roads," said one TV report from WCNC in 2019.

Charlotte has a long-term plan to become a less car-oriented city through investments in rail and other public transit. Building drive-thru restaurants in densifying areas clash with these goals, said Keba Samuel, chair of the Charlotte Planning Commission.

"The more drive-thrus you build, the more car-centric you become — as opposed to something that has more mobility options," she said. "It doesn't make sense to have this multi-billion investment in light rail and still encourage an auto-centric environment. It's contradictory."

However, the Charlotte City Council recently approved new Chick-fil-A and Bojangles drive-thrus near public transit stations.

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Salt Lake City bans new drive-thrus in busy part of Sugar House

SALT LAKE CITY — Adding new drive-thru services will no longer be permitted in a growing piece of Sugar House under a zoning ordinance amendment Salt Lake City leaders approved Tuesday night.


The Salt Lake City Council voted unanimously to approve an ordinance that prohibits new drive-thru facilities from being built within the neighborhood's business district, a section between 2100 South and I-80, from about 900 East to 1300 East. All businesses with existing drive-thru options in the district will remain grandfathered in on the old rule and continue to operate their drive-thru service as they are now, according to the city.

The vote followed some consideration to possibly alter the language to allow for financial institutions and pharmacies to be excluded from the ban, following feedback from a public hearing on the issue last month. The council could have voted to approve a second option that only allowed financial institutions, retail goods and retail services to build new drive-thrus; they opted instead for a broader ban.

Moments before the vote, Salt Lake City Council Vice Chairwoman Victoria Petro explained that some public comments helped sway the decision.

"If you have a car, driving outside the bounds of the business district is not difficult for you," she said. "We've already seen that businesses pivot well during pandemics and crises, and we can pivot. But for normal operating sanity, we need to save (Sugar House residents) from any further drive-thrus."

The Salt Lake City Planning Commission initiated the amendment last year and voted 10-1 in April, giving a favorable recommendation after meetings and other outreach with residents and businesses in the affected Sugar House boundaries and the neighborhood council.

 This map shows where the Sugar House Business District is located and businesses that currently have drive-thru service within it. Existing drive-thrus will not be altered by the Salt Lake City's zoning amendment banning new drive-thru service options in the area.

This map shows where the Sugar House Business District is located and businesses that currently have drive-thru service within it. Existing drive-thrus will not be altered by the Salt Lake City's zoning amendment banning new drive-thru service options in the area. (Photo: Salt Lake City Corporation)

Council members also seemed to lean in favor of the rule change [during an information meeting on the matter in July](#). Salt Lake Council Chairman Darin Mano said it could potentially reduce traffic jams in the area by removing cars backed out onto streets.

"I think there are parts of our community where drive-thrus make sense, and, I think, Sugar House is not one of them anymore," he said at the time.

Wade Olsen, an executive for Dee's Incorporated, which owns properties within the boundary, pushed back during an Aug. 8 public hearing, saying he doesn't believe drive-thrus and walkable communities are "exclusive of each other" as long as planning is done correctly.

But others who attended the meeting agreed with the council. One resident said drive-thrus have "detrimental effects" on the area because of the limited space in the area, while another resident called walking through the district "a nightmare," and others said more could compound environmental effects as vehicles idle in line.

Meanwhile, city zoning experts explained in July that a new business can still operate a drive-thru if it replaced a similar business with an allowed drive-thru grandfathered in. An appeals officer would have to approve if a new restaurant opened at an old bank site. The carryover can also be abandoned if the building is vacant for more than a year and isn't marketed for use.

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ORDINANCE 2024-04

AN ORDINANCE TO AMEND SECTIONS OF THE MIDWAY CITY LAND USE CODE TO PROHIBIT THE CREATION OF NEW DRIVE-THROUGH WINDOWS IN MIDWAY CITY

WHEREAS, pursuant to Utah Code Section 10-9a-509 the Midway City Council may formally initiate proceedings to amend city ordinances; and

WHEREAS, the Midway City Council desires to amend Chapter 16.13.39, which addresses off-street parking and loading, to add a subsection prohibiting new drive through windows in Midway City; and

WHEREAS, preventing new drive-through windows will eliminate the congestion and safety issues that result from cars blocking sidewalks and lining up on public roads, as well as aid the City in its efforts to maintain its rural “village” feel.

NOW THEREFORE, be it ordained by the City Council of Midway City, Utah, as follows:

The following Section of Chapter 16 shall be amended to include the following:

Section 16.13.39(M)

M. Commercial Drive-Throughs Prohibited

The creation of new commercial drive-throughs is prohibited in all zones. All drive-throughs that legally exist on the date this code provision takes effect may continue as allowed elsewhere in this title.

This ordinance shall take effect upon publication as required by law.

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this day of 2024.

Council Member Jeff Drury _____
Council Member Lisa Orme _____
Council Member Kevin Payne _____
Council Member Craig Simons _____
Council Member JC Simonsen _____

APPROVED:

Celeste Johnson, Mayor

ATTEST:

Brad Wilson, City Recorder

APPROVED AS TO FORM:

Corbin Gordon, City Attorney

(SEAL)