



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Brian Fullmer
Policy Analyst

DATE: September 5, 2023

RE: Sugar House Drive-Through Text Amendment
PLNPCM2023-00026

Item Schedule:

Briefing: July 18, 2023

Set Date: July 18, 2023

Public Hearing: August 8, 2023

Potential Action: September 5, 2023

NEW INFORMATION

In part based on public input, a Council Member asked about changing the ordinance to continue to allow drive-through facilities at financial institutions and pharmacies. It was noted that these businesses typically have significantly lower drive-through volume than food service businesses. In addition, some customers have mobility limitations making it difficult for them to enter buildings.

Planning staff said allowing drive-throughs at these types of businesses while prohibiting them at new restaurants would prevent someone from utilizing a provision in City Code that allows changing from one nonconforming use to another nonconforming use. An example of that is a bank with drive-through facilities being converted into a restaurant or coffee shop and maintaining the drive-through. Permitted uses cannot be changed to nonconforming uses. If a majority of the Council is interested Council Staff can work on alternative language with the Attorney's Office and Planning staff.

PUBLIC HEARING UPDATE

Nine people spoke at the August 8, 2023 public hearing. Eight expressed general support for the current proposal or for allowing exceptions for financial institutions and pharmacies. One person, who is a business owner in the area, spoke against the proposal and referred to an email he sent to the Council. The Council closed the public hearing and deferred action to a future Council meeting.

The following information was provided for previous meetings. It is included again for background purposes.



BRIEFING UPDATE

At the July 18, 2023 briefing Council Members asked whether drive-through facilities are connected with a business or the property, and if vacancy at a property would result in a loss of the nonconforming use. Planning staff explained a nonconforming use is associated with the property. As an example, if a restaurant with a drive-through closed and another restaurant opened at the same location, the drive-through use would be allowed to continue. However, if there was a change of use on the property, (e.g., from a bank to a restaurant) that use would need Appeals Hearing Officer review to determine whether to allow the drive-through to continue. A 12-month vacancy at a property with drive-through facilities would result in the loss of the nonconforming use if the property was not marketed for use.

Other Council Members asked if any current plans would be affected by the change, and clarified where the proposed changes would apply. Planning staff was not aware of any plans in the Sugar House Business District that are proposing new drive-through facilities. Planning also reiterated that the proposal is only for the Sugar House Business District and would not apply outside the area.

Council Members expressed general support for the proposed text amendment and noted drive-throughs are appropriate for some areas of the city, but not in the Sugar House Business District.

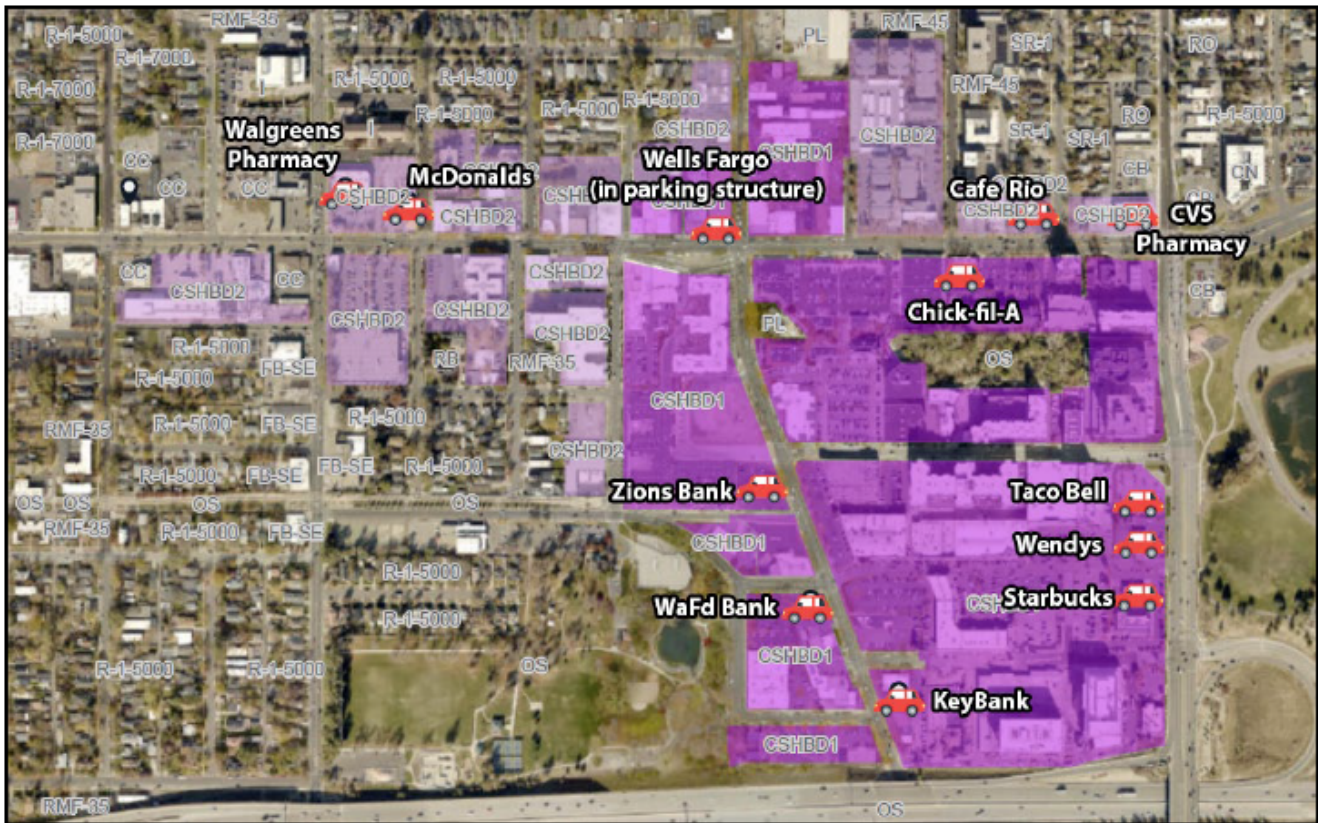
The Council will be briefed about a proposal initiated by the Salt Lake City Planning Commission to amend the zoning ordinance that would prohibit drive-through uses in the Sugar House Business District. Currently, drive-throughs are permitted for financial institutions, restaurants, retail goods and retail service establishments in the Sugar House Business District. The proposed changes prohibiting drive-throughs are not citywide; they apply only to the Sugar House Business District.

The proposal is to prohibit new drive-through uses within the Sugar House Business District (CSHBD1 and CSHBD2) by removing the permitted use designations in these districts from the Table of Permitted and Conditional Uses for Commercial Districts (21A.33.030 *Salt Lake City Code*). In addition, the proposal calls for modifying Section 21A.40.060 *Salt Lake City Code* clarifying that drive-through facilities are only permitted when specifically listed as permitted in the land use tables.

Under the proposal, existing drive-through facilities in the Sugar House Business District would become legal nonconforming uses and could continue operating.

Planning staff recommended the Planning Commission forward a positive recommendation to the Council. The Commission reviewed the proposal during its April 26, 2023 meeting and held a public hearing at which three people spoke. The comments were generally in support of the proposal and some suggested potential exceptions for financial institutions and pharmacies. Commissioners voted 10-1 in favor of forwarding a positive recommendation to the City Council. The Commissioner who voted against the proposal did not indicate why he was opposed.

Planning staff included the image below indicating where the current 12 drive-through facilities are located in the Sugar House Business District.



*Existing drive-through facilities in the Sugar House Business District
Image courtesy of Salt Lake City Planning Division*

Goal of the briefing: Review the proposed text amendment, determine if the Council supports moving forward with the proposal.

POLICY QUESTION

1. The Council may wish to discuss whether to allow new drive-throughs for new pharmacy and financial institution uses in the Sugar House Business District as a permitted or conditional use as raised in the Planning Commission Public Hearing.

KEY CONSIDERATIONS

Planning staff identified three key considerations related to the proposal which are found on pages 4-7 of the Planning Commission staff report and summarized below. For the complete analysis, please see the staff report.

Consideration 1-Compatibility with Master Plan Policies and Initiatives

Planning staff found the proposed text amendment supports principles found in Plan Salt Lake and the Sugar House Master Plan including:

- reducing auto dependency and single occupancy vehicle trips
- promoting a “pedestrian-first” walkable community
- reducing greenhouse gas emissions
- a balanced economy
- encourage people-focused development

Planning noted “The proposed amendment will contribute towards the implementation of the above-mentioned goals and policies by preventing an increase in the number of automobile-dependent uses, encouraging pedestrian-oriented development, and facilitating small business clusters in a similar manner to downtown areas.” (*Planning Commission staff report page 5.*)

Consideration 2-Impacts of the Proposed Text Amendment on New and Existing Uses

If the amendment is adopted, businesses would not be allowed to construct a new drive-through in the Sugar House Business District. Existing drive-through facilities would become legal nonconforming uses and allowed to continue until voluntarily removed or deemed to be abandoned.

Nonconforming uses are defined as “*any building or land legally occupied by a use at the time of passage of the ordinance codified herein or amendment thereto which does not conform after passage of said ordinance or amendment thereto with the use regulations of the district in which located.*” (Chapter 21A.62.040 *Salt Lake City Code.*)

If a nonconforming drive-through use is proposed to change to another nonconforming drive-through use, the Appeals Hearing Officer would determine whether the new use would be a similar land use type as the existing use. Planning provided an example of a bank in the Sugar House Business District with a drive-through requested a change of use to a restaurant with a drive-through. Under that scenario, a process outlined in City Code requires a hearing by an Appeals Hearing Officer, and staff review of applicable drive-through facility regulations including stacking lane standards, and the requirement that internal circulation patterns keep traffic from backing onto the street or block access to required parking spaces on the lot.

Consideration 3-Use Analysis

During the COVID-19 pandemic, many people utilized drive-throughs as a convenient way to get goods and services while maintaining social distancing. Some businesses without drive-throughs adapted by dedicating parking spaces for online or phone order pick-up. Others provided a delivery option, limited the number of customers allowed inside, or scheduled appointment times. Planning staff acknowledged drive-throughs provide community benefits, but businesses can be successful without them.

Access for those with disabilities or who may have difficulty leaving their vehicle is an important consideration. Planning staff noted the importance of equity discussed in *Plan Salt Lake* with an initiative to “*pursue equitable access to privately provided services and amenities across the City.*” Planning reiterated that under the proposal existing drive-through facilities in the Sugar House Business District will be allowed to continue. They also noted other nearby zoning districts on 2100 South outside the Sugar House Business District such as Corridor Commercial and Community Business that would continue to allow drive-throughs.

Planning provided the following map showing where drive-through facilities are permitted, prohibited, or permitted for some uses. In general, drive-throughs are prohibited in residential districts or in areas where the district purpose statement emphasizes walkability. Drive-throughs are permitted or conditional uses in major commercial only districts and some transitional/support districts.

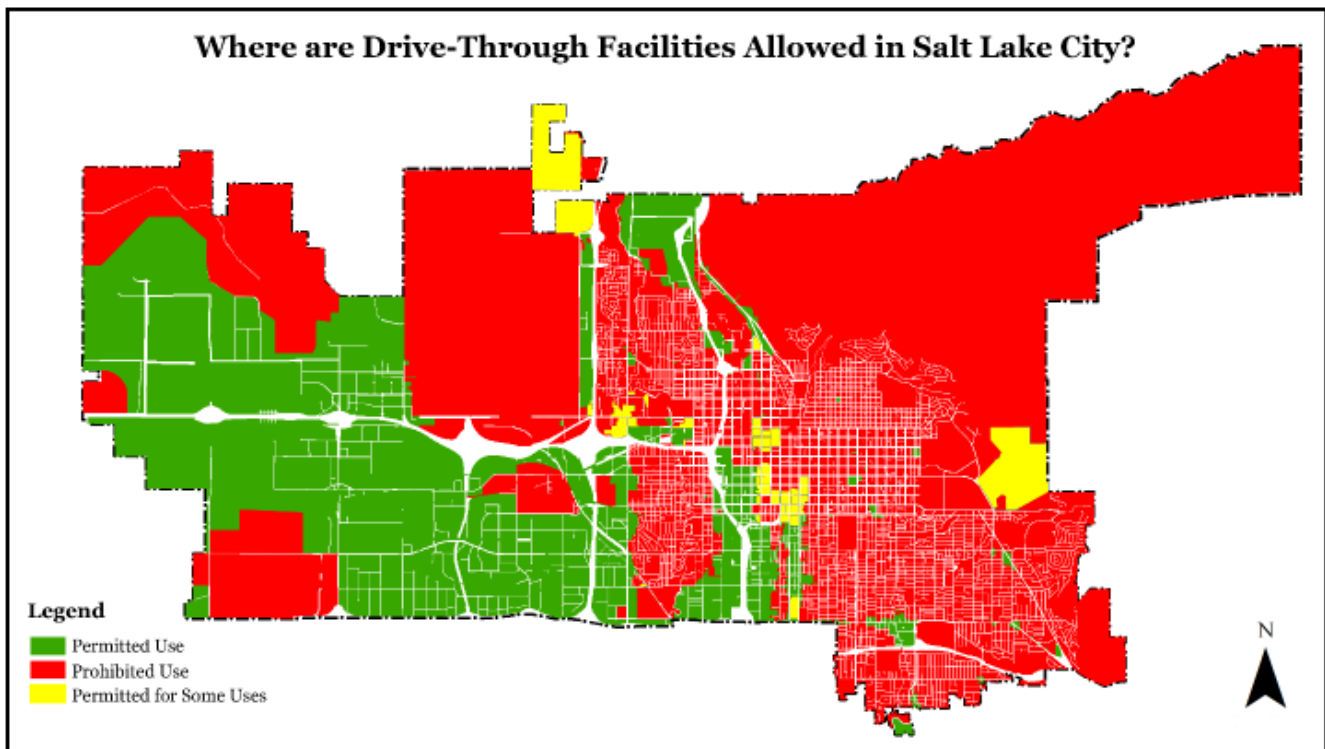


Image courtesy of Salt Lake City Planning Division

In their recommendation to the Planning Commission, Planning staff stated *“The proposed amendment implements professional best practices, does not conflict with other applicable State of City Code, and aligns with the City’s zoning purposes by promoting a walkable community in the Sugar House Business District. The proposed amendment also furthers the purpose of the city’s policies and goals, including those in the applicable master plans.”* (Planning Commission staff report page 13.)

ZONING TEXT AMENDMENT STANDARDS

Planning staff reviewed the proposed text amendment against the following criteria *City Code* says the City Council should consider. Please see Attachment D (pages 24-25) of the Planning Commission staff report for additional information.

Factor	Finding
Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the City as stated through its various adopted planning documents.	Complies
Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance.	Complies
A proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards.	Not Applicable

The extent to which a proposed text amendment implements the best current, professional practices of urban planning and design.	Complies
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PROJECT CHRONOLOGY

- August 24, 2022-Planning Commission voted to initiate the petition.
- January 26, 2023-Petition assigned to Andy Hulka, Principal Planner.
- February 17, 2023-Petition posted to the Planning Division Online Open House webpage.
- February 6, 2023-Notice emailed to Sugar House Community Council and Sugar House Chamber of Commerce.
- March 1, 2023-Early notification mailed to property owners and tenants within the CSHBD1 and CSHBD2 boundaries.
- March 20, 2023-Planning staff presented the proposed changes to the Sugar House Community Council Land Use and Zoning Committee.
- April 14, 2023-Planning Commission agenda posted to City and State websites.
- April 26, 2023-Planning Commission meeting and public hearing. The Planning Commission voted 10-1 to forward a positive recommendation to the City Council.
- May 17, 2023-Ordinance requested from Attorney’s Office.
- June 9, 2023-Planning received signed ordinance from the Attorney’s Office.
- June 21, 2023-Transmittal received in City Council Office.