



PLANNING

To: Mayor and Town Council

From: David Hoover, Director of Development Services

Through: Mario Canizares, Town Manager
Chuck Ewings, Assistant Town Manager

Re: Zoning Amendment – Drive-Thru Landscaping

Town Council Meeting – December 12, 2023

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Conduct a public hearing to consider amending Chapter 3, Section 1.4 – Conditional Development Standards and Chapter 4 – Development Requirements of the Town of Prosper Zoning Ordinance to modify requirements related to drive-throughs. (ZONE-23-0033)

Description of Agenda Item:

In accordance with the Comprehensive Plan's recommendations regarding establishments with drive-throughs, Staff is proposing several amendments to the Town's Zoning Ordinance regarding the location of drive-throughs, landscape screening, and stacking and escape lane standards.

Often, when thinking of drive-throughs, one may picture a restaurant where you can order and pick up food without exiting a vehicle. This is one type of drive-through and one type of business that requires stacking. There are several types of businesses that have drive-throughs and/or stacking, and the development standards for these establishments can vary based on use and proximity to residential zoning. These standards are found in several sections of the ordinance. Below is some information to assist in distinguishing the requirements of the Ordinance.

The Zoning Ordinance makes a distinction between Restaurants, which can be with or without a drive-through, and Restaurants with Drive-Ins. Examples of each would be:

- Restaurant: Olive Garden
- Restaurant with a drive-through: McDonald's
- Restaurant, Drive In: Sonic

Restaurants (without a drive-through) are permitted as follows:

- Permitted in the Office Zoning District only if the subject property is located along a roadway classified as a major or minor thoroughfare, as defined by the Thoroughfare Plan.

- Permitted by right in the Office, Downtown Retail, Retail, Downtown Commercial, Commercial, and Commercial Corridor Zoning Districts subject.
- Permitted by Specific Use Permit in the Neighborhood Services Zoning District.

Restaurants with a drive-through are permitted as follows:

- Permitted by Specific Use Permit in the Retail, Commercial, and Commercial Corridor Zoning Districts.
- A distance requirement from residential zoning is applied.

Restaurants, Drive-In are permitted as follows:

- Permitted by right in Retail, Downtown Commercial, Commercial, and Commercial Corridor
- A distance requirement from residential zoning is applied.

Restaurants are not the only type of establishment that can include a drive-through. A bank or pharmacy, for example, are uses that could have a drive-through. Unlike a restaurant, when these types of uses include drive-throughs, they do not trigger a requirement for a Specific Use Permit.

Every business that has a drive-through must have adequate stacking behind the order point, whether that be a service window, call box or service island. Businesses that do not have drive-throughs but would also require stacking include automobile oil change facilities and similar establishments.

Standards for the length of stacking, according to use, are established in the Zoning Ordinance. An escape lane must also be provided in conjunction with the stacking lane. There are specific screening requirements for drive-throughs, stacking lanes, and escape lanes.

Description of Amendments:

The proposed amendments will establish additional requirements when drive-throughs and stacking are proposed. The following is a summary of the proposed amendments:

Chapter 3, Section 1.4, Subpart 26

- Prohibit Restaurants with drive-throughs being on lots adjacent to each other.

Chapter 4, Section 2.6(C)

- Where a non-residential development is adjacent to the property line of residential zoned parcels or areas shown as residential on the future land use plan, a 15-foot landscape area is required along the perimeter of the non-residential use. There are different landscape requirements for uses that have truck docks or loading spaces and for any lot that contains a drive-through restaurant, drive-in restaurant and/or automotive use.
 - *Typical Requirement* – The current requirement is for one large tree, three-inch caliper minimum, planted on 30 foot centers.
 - *Uses with truck docks or loading spaces* – The current requirement is for one evergreen tree, three-inch caliper minimum, planted on 20-foot centers where the truck docks or loading spaces are adjacent to single family property.

The amendment will clarify that the evergreen trees will need to reach a minimum height of 15 feet and that the landscaping is required where adjacent to all residentially zoned properties and areas shown as residential on the future land use plan. The height standard was added to match the current standard applied to lots containing a drive-through restaurant, drive-in restaurant and/or automotive use.

- *Drive-through restaurant, drive-in restaurant, and/or automotive use as defined in Chapter 4, Section 9.11(A)* – The current requirement is for one large tree, three-inch caliper minimum, planted on 20-foot centers adjacent to a residential zoning district. A minimum of 50 percent of the trees shall be of an evergreen variety that will reach a minimum of 15 feet in height. All landscape screening materials shall be maintained in a manner to provide the intended screening.

The amendment will change the tree type requirement so that all trees will be evergreen and will reach a minimum height of 15 feet so that the screening is consistent throughout all seasons. It will also clarify that these standards are to be applied not only when these uses are adjacent to property in a residential zoning district but also when identified as residential on the future land use plan.

- Where a non-residential development is adjacent to the property line of another non-residentially zoned property or property shown for non-residential on the future land use plan, a five-foot wide area is required along the property line with one small tree and one five-gallon shrub planted every 15 linear feet. These trees and shrubs may be clustered. There is an allowance for the 5-foot-wide area to be shifted or eliminated when drive-aisles/fire lanes allow access to parking along the property line, per Staff's discretion. It may also be eliminated where buildings attach along a common property line.

The amendment adds a new section specifically for all uses containing a drive-in, drive-through, or that require stacking. For these lots, the landscape area along the property lines will be 10 feet, which is twice the current width. The landscaping will be enhanced with a minimum three-inch caliper evergreen tree planted every 15 linear feet, rather than small tree that could be deciduous. This will ensure a consistent screen throughout the year. There will be five-gallon shrubs every three feet rather than one every 15 feet. For these uses, there is no allowance to cluster the trees and shrubs in order to ensure a solid screen. The landscape area can be shifted to the edge of a fire lane/drive aisle, but there is no situation where it could be eliminated.

- The standards include a requirement for a 10-foot-wide landscape island around the outer edge of the drive-through lane. As the standard is written, it may be misconstrued that the landscape island is only required for the stacking area, which is located behind the order point. The intent is that the island wrap around the entire drive-through facility from the point of entry into the stacking area to the exit of the drive-through lanes. Essentially, it would wrap the outer edge of the escape lane. If the landscape island is located on the perimeter of the property, perimeter landscaping requirements may be applied towards this requirement.

The language has been updated to clarify that the island is required for uses containing a drive-in, drive-through, or that require stacking. Clarity is provided regarding the location of the island and uses the escape lane as a reference. The landscape standards for the island have been modified to remove the use of deciduous trees and requires that all trees are evergreen. The current allowance for ornamental trees to be substituted for shrubs has been revised to allow a mixture of ornamental trees and shrubs. The reason for this is that shrubs can give year-round coverage.

Chapter 4, Sections 4.9 and 4.10

- Stacking and escape lane requirements for drive-throughs are currently within the section describing loading areas.

The amendment creates a new section (Section 4.10) for stacking requirements and breaks down the standards into individual subsections. It prohibits the placement of stacking and drive-through lanes between the building and the adjacent public right-of-way. Escape lanes are better defined and described as a nine-foot-wide aisle that provides access around the entirety of the drive-through facility from the point of entry, around the stacking lane, and to the exit. Finally, the landscape standards are mentioned by referencing Chapter 4, Section 2.6(C).

Chapter 4, Section 5.2(A)

- The screening wall requirements for lots containing drive-through restaurant, drive-in restaurant, and/or automotive uses were moved from Chapter 4, Section 9.11(A) into this section. The amendment to this section will clarify that these standards apply when adjacent to residentially zoned property or areas shown as residential on the future land use plan rather than simply a “residential zoning district.”

Chapter 4, Section 9.11

- This section of the ordinance provides additional standards for when a drive-thru restaurant, drive-in restaurant, and/or an automotive use, as defined in this section, are adjacent to residential zoning.

Throughout this section, additional language was added to specify that the distance requirements apply not only when adjacent property is any residential zoning district but also when adjacent property is shown as residential on the future land use plan.

- The current ordinance states that all buildings, structures, and outdoor speakers used in conjunction with any drive-through or drive-in restaurant shall be located a minimum of 200 feet from any residential zoning district. Then, there is a stipulation that buildings and outdoor speakers may be located closer than 200 feet from a residential zoning district when the building is located between the speaker box and adjacent residentially zoned property.

The proposed amendment removes the stipulation that would allow the buildings, structures and outdoor speakers to be closer to the residential zoning district if the building is between the speaker and the residential property.

This section currently contains landscape and screening wall requirements that are best located in Sections 2.6(C) and 5.2(A). These standards have been moved to the corresponding sections with this amendment proposal. All that is needed in Section 9.11 is a reference to the location of the landscape and screening standards.

Comprehensive Plan:

The Comprehensive Plan includes a section regarding drive-throughs. The following is an excerpt addressing this use:

Commercial development and traffic go hand in hand, and developments that provide drive-thru access exacerbate traffic concerns. Drive-thru proliferation in commercial areas can cause unsightly development, excessive ingress and egress points, queuing complications, noise, and clunky internal circulation. Although this plan can suggest where drive-thru locations may be most desirable, the Town’s development regulations control development design. In Prosper’s instance, it may be beneficial for the Town to revisit its development regulations pertaining to drive-thrus and revise standards that create traffic issues.

Six possible regulations are proposed to reduce the adverse impact of large multi-use developments on the Town. These regulations are listed below with Staff's response regarding how each was considered with the proposed amendments:

- *Require increased standards that specify queuing and drive-thru lane requirements* – The escape lane and stacking lanes have been clarified. Landscape standards have been updated to include a 10-foot perimeter landscape width and evergreen plantings.
- *Restrict drive-thru allowances for buildings that front higher classified roadways* – This item was not addressed with the proposed amendments.
- *Apply a distance requirement from residential uses and zoning districts* – The allowance for a reduction of the 200-foot separation for drive-throughs restaurants, drive-in restaurants, and automotive uses, as defined in Chapter 4, Section 9.11, has been removed. This distance requirement does not apply to other establishments that would have a drive-through, such as a bank or pharmacy.
- *Require uses that incorporate drive-thrus to have an increased minimum setback to ensure vehicle queuing does not occur at the front of the property* – The minimum setback has not been increased; however, a requirement has been added that stacking/drive-through lanes are not permitted between a building and an adjacent public right-of-way.
- *Require drive-thru approval through the specific use permit process* – Restaurants with drive-throughs currently require a Specific Use Permit in certain zoning districts. The amendments do not impose a Specific Use Permit requirement for other uses that may include a drive-through.
- *Restrict drive-thrus by lot size* – The amendment does not restrict drive-throughs by lot size; however, the lot size will likely be increased to ensure compliance with the wider perimeter landscape area and the defined escape lane around which a 10-foot-wide landscape island must wrap. The amended language also prohibits restaurants with drive-throughs from being on adjacent properties.

Staff finds that the proposed amendments uphold the Town's Comprehensive Plan.

Budget Impact:

There is no budgetary impact affiliated with this item.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attached Documents:

1. Redlined Zoning Ordinance
2. Proposed Text Amendments

Town Staff Recommendation:

Town Staff recommends approval of amending Chapter 3, Section 1.4 – Conditional Development Standards and Chapter 4 – Development Requirements of the Town of Prosper Zoning Ordinance

to modify requirements related to drive-throughs. The Planning & Zoning Commission recommended approval of this item (5-2) at their meeting on December 5, 2023. The Commissioners who voted against this motion were not disagreeable to the concepts proposed but had specific concerns regarding the landscaping and associated maintenance requirements. They requested that Staff present their concerns to the Council during the review of this item.

Proposed Motion:

I move to approve/deny amending Chapter 3, Section 1.4 – Conditional Development Standards and Chapter 4 – Development Requirements of the Town of Prosper Zoning Ordinance to modify requirements related to drive-throughs.