



# city of **CREVE COEUR**

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## **APPLICATION TO PLANNING AND ZONING COMMISSION #22-008: TEXT AMENDMENT TO CONDITIONAL USES, SECTION 405.470.A.14 FOOD SERVICES AND DRINKING PLACES WITH DRIVE- THROUGH SERVICES**

**FOR THE MEETING OF:** Monday, May 16, 2022, 6:00 P.M.

**LOCATION:** MX, GC, CB, PO, PC, and LI Zoning Districts

**REQUEST:** Jason Jaggi, Director of Community Development, on behalf of the City of Creve Coeur, Planning Division, has submitted a text amendment application to consider amendments to the conditional use standards as provided by Section 405.470.A.14 Food Services and Drinking Places (NAICS 722). Specifically, the text amendment proposes changes to the conditional use standards for drive through restaurants with respect to site design, size of buildings, and operational aspects of these uses. The current regulations for drive-through restaurants were adopted by the City in 2014.

Text Amendments to the Zoning Ordinance require review and a public hearing by the Planning and Zoning Commission with final approval by the City Council.

**ADDITIONAL INFORMATION:** The Planning and Zoning Commission will conduct a Public Hearing on this request on Monday, May 16, 2022 prior to providing a recommendation to the City Council. Meetings are held at 6:00 P.M., in the Council Chambers of the Creve Coeur Government Center located at 300 North New Ballas Road. Additional information is available at the Government Center, Planning Division offices, and on the City's website at [www.crevecoeurmo.gov](http://www.crevecoeurmo.gov) under the Planning Projects page.

**APPLICANT:** Jason W. Jaggi, AICP  
Director of Community Development  
City of Creve Coeur  
300 N. New Ballas Road  
Creve Coeur, MO 63141

**REPORT PREPARED BY:** Jason W. Jaggi, AICP Director of Community Development

**DATE:** May 12, 2022

**ATTACHMENTS:** Existing drive-through ordinance, Section 405.470.A.14; proposed revisions to Section 405.470.A.14 drive through restaurants (May 5, 2022 Draft); April 22, 2022, City Council update memo and draft, February 3 and March 7, 2022, P&Z Work Session memos and drafts.

### Key Issues:

- Are the changes consistent with the purposes of the Zoning Code?
- Are the changes consistent with the objectives and strategies of the Comprehensive Plan?

### Creve Coeur 2030 References

- Chapter 3, Objectives and Strategies

### Zoning Code References

- Section 405.470.A.14 Food Services and Drinking Places

## **BACKGROUND**

The current drive through ordinance for restaurants was established in 2014 in association with a request for a drive through facility for St. Louis Bread Company at 447 North New Ballas Road. Prior this ordinance, the City required a conditional use permit with the provision that drive-through restaurants must be located on sites of at least 3-acres. The 3-acre site minimum appeared effective in limiting these uses as prior to current ordinance, only one drive through restaurant was operating in the City. In 2011, a text amendment request was considered that would lower the site size requirement for drive-through restaurants to 1-acre with a separation requirement of ½ miles between uses; however, this amendment did not make it all the way through the process.

The current ordinance is highly restrictive compared to many municipalities but has been effective in achieve the outcome desired by the City to limit these uses. Currently, there are three (3) drive throughs in Creve Coeur: McDonald's (11521 Olive Blvd.), St. Louis Bread Company (447 N. New Ballas Rd.), and Panda Express (10445 Olive Blvd.). In addition, a conditional use permit was approved in 2014 for a freestanding Jimmy Johns with a drive-through at 13140 Olive Boulevard; however, that restaurant was never built. Creve Coeur continues to be the subject of interest for additional drive through developments but many have difficulty meeting all of the requirements of the ordinance. More recently, the COVID-19 pandemic and the rise of contactless food service has helped to fuel interest in drive through developments not only in Creve Coeur but in many other cities nationally.

On December 6, 2021, a Joint Work Session with the Planning and Zoning Commission and the City Council was held to identify planning priorities for staff in 2022. There was general agreement to review the current drive-through ordinance to determine if changes need to be made. Following the December joint session, City staff held work sessions with the Planning and Zoning Commission on February 7, 2022 and March 7, 2022 to discuss possible revisions. In addition, on April 22nd, staff presented a summary of the revisions to the City Council for their review and input prior to the public hearing at the Planning and Zoning Commission. The staff memos and draft versions of the revisions associated with each of these meetings are attached for reference.

The proposed amendments seek to modify several areas of the current ordinance. After eight years since the adoption of this ordinance, staff believes that some of the requirements are unnecessarily specific, difficult to achieve, and, as a result, changes are needed. Based on prior discussions at the work sessions, the Planning and Zoning Commission and the City Council have expressed support for such a review. The proposed changes, as currently presented, maintain the structure of the regulations with different requirements for these uses that are adjacent to residential uses and those that are not. At this time, staff is not proposing a formal draft ordinance for a recommendation to City Council, as further discussion and additional public input is desired.

## **COMPREHENSIVE PLAN REVIEW**

The Creve Coeur 2030 Comprehensive Plan does not specifically address drive through restaurants. However, the plan promotes and places an emphasis on pedestrian accessibility and walkability with a mix of uses and high-quality design (Strategies 1.1, 1.3 and 1.9, Page 45) while recognizing the need to be responsive to changing consumer preferences (Strategy 3.2, Page 47). The plan also emphasizes the need to mitigate the impact of non-residential uses such as lighting, noise and trash on adjacent residential uses (Strategy 2.7, Page 46) and to protect residential areas from negative encroachment non-residential uses (Strategy 2.9, Page 46). The plan organizes the City into several Placetypes with a vision and recommendations for each Placetype. This text amendment applies to a specific category of use which is conditionally permitted in nearly all of the City's non-residential zoning districts. As such, this review

does not specifically address each Placetype recommendation, however, it can be reasonably stated that drive-through restaurants, without regulation, would be counter to the overall vision and goals within the non-residential Placetypes. As such, the proposed text amendments continues to promote the desired form and character for these uses while providing the necessary regulations for consistency with the broader goals of the plan. These broader goals include protection of adjacent residential areas from commercial uses, high quality development, pedestrian accommodations, and visually attractive streetscapes.

### **PROPOSED AMENDMENTS TO THE ZONING CODE**

The City regulates drive through-restaurants within Section 405.470.A.14 of the Zoning Ordinance. A conditional use permit is required for these uses in all commercial and light industrial zoning districts. The numerous conditional use standards that are required to be met are the focus of this review and suggested amendments. Other allowable drive through uses, such as drive through banks and pharmacies, are regulated separately and are not part of this review.

### **Existing Ordinance**

The ordinance is split into two separate sets of requirements for lots that abut residential uses and lots that do not abut residential uses. For properties adjacent to residential, the drive through facility must be located within a multi-tenant building located to the side or rear and cannot be freestanding. Other restrictions include the location of the window and ordering facilities, the minimum size and number of seats of the establishment are also provided.

For properties not located adjacent to residential, the drive through facility must be located within a coordinated development that has at least two buildings and at least 3 acres combined and can be freestanding. Requirements specifying the location of the drive through window, stacking lane, minimum size and number of seats are provided.

### **Proposed Revisions**

The redlined version of the changes is attached for review. As previously noted, the structure for separate requirements for drive throughs adjacent to residential and those that are not have been left in place.

#### Drive-through restaurants adjacent to residential uses

The prohibition for freestanding drive-through restaurants remains in place with only one drive through restaurant with the stacking lanes on the rear or side of a multi-tenant retail building with at least 200-feet of frontage. In addition, the requirement for a traffic study, automatic volume control for the order facility, and a noise study remain in place.

The following changes are summarized below:

- Prohibit drive through order facility and service window to be adjacent to a wall facing a primary street. Service windows and menu boards would not be allowed on any building frontage that faces a primary street (Olive Boulevard, Ballas Road, etc.). The current ordinance is vague on this subject as it does not allow an order facility or service window adjacent to any street but provides an exception for approval without any context.
- If adjacent to a street (as allowed above), the drive through facility and order window shall provide landscape screening to soften the appearance from the road.
- Remove the requirement that specifies a minimum size for the floor area of restaurants and minimum number of indoor seats. This has been changed to still require indoor seating for customers and to encourage outdoor dining, allow unenclosed outdoor seating areas to be exempt from providing additional off-street parking. The zoning ordinance currently requires 1 parking space per 8 outdoor seats. For the size of the restaurant, the specific limit of 2,400 square feet has been removed as it seems unnecessary given the requirement that drive through restaurants must be located within a multi-tenant building.

- Remove the prohibition against the stacking lane crossing between the building and principal street frontage. This has been changed to allow the stacking lane to be placed in such a manner but with landscaped screening provided.

#### Drive-through restaurants adjacent to non-residential uses

The proposed revisions for drive through restaurants that are not adjacent to residential uses are more extensive to allow greater flexibility while still maintaining appropriate standards. The requirement for a traffic study, automatic volume control for the order facility and a noise study remain in place.

The following changes are summarized below:

- The limit for one drive through restaurant remains within a coordinated development totaling 3 or more acres remains. The revisions clarify that a total of two buildings within the coordinated development must be present, and that the drive through restaurant qualifies as one of those two buildings. This provision maintains the prohibition of drive throughs on separate lots that are not part of a larger development. The minimum size of the building currently requires 200-feet of frontage. The proposed amendment lowers that to 150-feet. As an alternative, this provision could be eliminated or based upon a minimum square footage (such as 5,00 square feet) for greater flexibility.
- Drive through order facilities would be prohibited from being placed on the building facing a primary street but would be allowed adjacent to a secondary street with landscaping to soften the view from the roadway.
- The specific requirements for landscaping adjacent to the building at 50% of the building size within an 8-foot wide area has been eliminated. Instead, the revision still requires pedestrian oriented site and landscaping features with examples provided but without specific, pre-determined requirements.
- Unenclosed outdoor dining areas would not require additional off-street parking.
- The minimum size for the drive through restaurant, if freestanding, has been reduced from 2,500 square feet to 2,000 square feet to reflect current trends in the industry for smaller buildings. The provision for 55-indoor seats remains, but could be reduced or re-stated after further discussion.
- Allow service areas (trash enclosures, equipment, etc.) to be detached from the building but to still require screening.

#### **SUMMARY AND NEXT STEPS**

While these uses provide a convenience to the public, if not regulated appropriately, drive-through restaurants can have negative impacts on the City's commercial districts and adjacent residential areas. The submitted changes to the drive through ordinance have been developed in such a manner to achieve an acceptable balance that implements the broader goals of the comprehensive plan, that seeks to mitigate the negative impacts, but also recognizes the ultimate desirability to accommodate these uses as provided by the current ordinance.

The specific areas that staff would like to the Commission to discuss and provide further direction on the following:

- The suitability of drive throughs adjacent to residential uses. Staff received feedback from the City Council update at the meeting on April 22<sup>nd</sup> that the City should discuss prohibiting these uses altogether if located adjacent to residential and instead focus on other sites that do not have this condition.
- Reducing the minimum size of freestanding drive-through restaurants and minimum indoor seating. Based on staff observations of recent developments, the size of these establishments appears to be getting smaller.

Staff has provided the link to this meeting's agenda packet to several commercial property owners and the commercial real estate community in the City to advise them of these proposed changes; however additional time to review and solicit comments would be appropriate. At this time, staff recommends that the Commission review the proposed amendments at this meeting, take comments from the public, and provide direction for staff to address at a subsequent meeting. Based on the discussion at this meeting, staff will incorporate any suggested revisions and prepare a draft ordinance outlining all of the changes for review and action by the Commission at a future meeting.

**MOTION**

A sample motion to continue the application and public hearing to allow additional input is as follows:

“I move to continue the public hearing for the proposed text amendments to the Zoning Ordinance as discussed with Application #22-008, amending the conditional use standards for drive-through restaurants, to the meeting of June 6, 2022”

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**APPENDIX 1: COMPREHENSIVE PLAN**

Included and attached by reference. See body of report for specific excerpts.

**APPENDIX 2: ZONING CODE**

Included and attached by reference. See body of report for specific excerpts.

## Proposed Revised Section 405.470.A Conditional Uses (Drive-thru Restaurant Ordinance)

14. Food services and drinking places — (NA/CS 722). Shall be located on sites of not less than two (2) acres with the following exceptions and conditions:  
[Ord. No. 5400 §2, 11-10-2014]

- a.** The acreage requirement does not apply to restaurants without drive-thru services within the "GC" District;
- b.** The acreage requirement does not apply to restaurants without drive-thru services in the "CB," "PO," "PC" and "LI" Districts that are located within a retail or office building, provided that such restaurants do not collectively occupy more than forty percent (40%) of the building square footage;
- c.** Drive-thru services on sites in the "MX," "GC," "CB," "PO," "PC," and "LI" Districts that abut residential uses are subject to the following:

**(1)** Drive-thru facilities shall be limited to one (1) restaurant with no more than two (2) service windows, two (2) order facilities and two (2) designated stacking lanes which shall all be located on the rear or one (1) end of a multi-tenant retail building having a continuous structure frontage of at least two hundred (200) feet. Such frontage may include one (1) passageway or arcade (not open on the sides).

**(2)** The drive-thru order facility and service window shall only be on or adjacent to a wall not facing a primary street, ~~unless otherwise approved, and if adjacent to residential uses, the facility and service window~~ shall be completely screened from the ground-floor level of adjacent residences with a property line wholly or partially within two hundred (200) feet of either the order facility or the service window by means of a solid barrier or topographic change. Vegetation cannot be used to meet this requirement but may be needed to address aesthetic concerns. If adjacent to a street, the drive-thru order facility and service window shall provide visual screening in the form of dense landscaping as approved by the Planning and Zoning Commission.

**(3)** The drive-thru restaurant shall have no ~~minimum building size requirement; however, less than two thousand four hundred (2,400) square feet of gross floor area (area under roof) and a minimum of fifty five (55) indoor seats and tables~~ for customers shall be provided. Unenclosed outdoor seating areas shall not require additional off-street parking.

**(4)** The drive-thru order facility and service window shall be no less than fifty (50) feet from any property line of any residential use.

**(5)** The designated stacking lane shall be no less than one-hundred ninety (190) feet long [approximately ten (10) cars] excluding the space being served by the window, which shall be no less than nine (9) feet wide by nineteen (19) feet long. The lane shall, at a minimum, provide for vehicular escape prior to the point of the facility order board, which escape route can be shared with the general parking lot circulation.

**(6)** The entrance to the designated stacking lane shall be no less than fifty (50) feet from the nearest point on the property line across the nearest vehicular entrance.

~~(7) If the designated stacking lane crosses between the building and principal street frontage it shall be screened in a manner consistent with Section 405.470.A.14.c.2 above. The designated stacking lane shall not cross between the building and principal street frontage.~~

(8) A traffic study shall be submitted by the applicant that demonstrates, to the satisfaction of the City, that the required drive-thru facilities shall not interfere with site circulation or be hazardous to motorists or pedestrians entering, exiting or passing by the site on adjacent roadways.

(9) The order facility shall utilize automatic volume control which adjusts outbound volume based on the outdoor ambient noise level.

(10) An acoustical study shall be submitted demonstrating that the order facility and service windows will not produce sounds exceeding sixty (60) dB as measured at any property line abutting a residential use, up to a height of eight (8) feet above ground at the property line and demonstrating that the order facility and service windows will not increase ambient sound levels at other property lines above the average Monday to Friday midday level.

**d. Drive-thru services on sites in the "MX," "GC," "CB," "PO," "PC," and "LI" Districts that only about non-residential uses are subject to the following:**

(1) Drive-thru facilities shall be limited to one (1) restaurant with no more than two (2) service windows, two (2) order facilities and two (2) designated stacking lanes in a coordinated development located on one (1) or more lots totaling three (3) or more acres, with shared access and two (2) or more buildings (including the proposed drive-thru), one (1) of which shall have a continuous structure frontage of at least ~~two hundred one hundred-fifty (200150)~~ feet. ~~Such frontage may include one (1) passageway or arcade (not open on the sides).~~ All buildings shall be designed with similar use of materials and design elements such that the buildings are aesthetically complementary to each other.

(2) The drive-thru order facility and service window shall only be on or adjacent to a wall not facing a primary street, unless otherwise approved. If adjacent to a street, the drive-thru order facility and service window shall provide visual screening in the form of dense landscaping as approved by the Planning and Zoning Commission.

(3) The drive-thru restaurant shall have pedestrian-oriented landscape adjacent to the building site features, equivalent in area to fifty percent (50%) of the gross floor area of the entire restaurant use (area under roof). These features shall include, but not be limited to, the following: landscaped planting areas adjacent to the building, outdoor seating areas, and pedestrian connections throughout the site. Unenclosed outdoor seating areas shall not require additional off-street parking.

~~(4) If the drive thru restaurant is freestanding, an eight-foot-wide planted landscape strip shall be adjacent to at least two (2) other sides of the building, exclusive of the pedestrian area.~~

(5) If the drive-thru restaurant is freestanding, it shall have no less than two thousand ~~five hundred (2,0500)~~ square feet of gross floor area (area under roof) and a minimum of fifty-five (55) indoor seats for customers.

(6) Any service areas, including, but not limited to, trash receptacles, compactors, transformers, outdoor cooking or refrigeration equipment ~~and utility connections~~, must be fully enclosed. ~~Such enclosures shall appear as a part of the restaurant building to the maximum extent as found to be practicable by the City.~~

(7) The designated stacking lane shall be no less than one-hundred ninety (190) feet long [approximately ten (10) cars], excluding the space being served by the window, which shall be

no less than nine (9) feet wide by nineteen (19) feet long. The lane shall, at a minimum, provide for vehicular escape prior to the point of the facility order board, which escape route can be shared with the general parking lot circulation.

(8) The entrance to the designated stacking lane shall be no less than fifty (50) feet from the nearest point on the property line across the nearest vehicular entrance.

(9) ~~If~~ The designated stacking lane ~~shall not cross~~ between the building and principal street frontage it shall be screened in a manner consistent with Section 405.470.A.14.d.2 above.

~~(10) A traffic study shall be submitted~~ by the applicant that demonstrates, to the satisfaction of the City, that the required drive-thru facilities shall not interfere with site circulation or be hazardous to motorists or pedestrians entering, exiting or passing by the site on adjacent roadways.

(11) The order facility shall utilize automatic volume control which adjusts outbound volume based on the outdoor ambient noise level.

(12) An acoustical study shall be submitted demonstrating that the order facility and service windows will not increase ambient sound levels at the property lines above the average Monday to Friday midday level.

e. "Drive-thru" shall mean service to on-premises patrons who do not enter the restaurant/patio area, but rather receive service through a drive-up window.