

PLANNING COMMISSION

FEBRUARY 8, 2021

6:30 O'CLOCK P.M.

1. Call to Order
2. Minutes of the Previous Meeting – January 11, 2021
3. Public Hearing – Ordinance Update Variance
4. Public Hearing – Ordinance Update Drive Through Businesses
5. Other
6. Adjourn

MINUTES OF PLANNING COMMISSION MEETING
January 11, 2021

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 11th day of January, 2021 at 6:30 PM

THE FOLLOWING WERE PRESENT: Commissioner Ferris, Commissioner Thompson, Commissioner Burton, Commissioner Torkelson, Commissioner Zelinske, Commissioner Tinsley and Commissioner Fitch

THE FOLLOWING WERE ABSENT: None

THE FOLLOWING WERE ALSO PRESENT: Administrator Tim Ibisch, Clerk Linda Rappe, Brad Scheib – HKgi and Kim and Steve White

CALL TO ORDER AT 6:30PM

MINUTES OF THE PREVIOUS MEETING – December 14, 2020 - Motion to Approve the Minutes as Submitted made by Commissioner Thompson, second by Commissioner Zelinske With All Voting Aye.

ELECT CHAIRPERSON – Motion by Commissioner Zelinske to have Ferris continue as Chair, second by Commissioner Thompson with All Voting Aye.

Chairman Ferris then appointed Commissioner Burton as Vice Chair.

DISCUSSION ON ZONING CODE ISSUES - no action required

Variance – Administrator Ibisch generated some language that was passed around. Brad Scheib stated that he took the content and plugged it into where it would be in the code. In the last case it was the property owner who was the requestor and not the city that incited it so that was acceptable. Mr. Schieb plugged the language into the code and is proposing adding 154.02.24 (G) revocation or amendment of a variance

And 154.02.35 an add to the variance section. If a condition is not being met the city could take action to revoke the variance.

Mr. Schieb also brought language to change in CUP section of the code regarding revoking CUPs. The Planning Commission was in favor of these changes and would like them brought back to the February meeting.

Drive Thru's in Downtown – the most recent zoning code update does not allow drive thrus in the downtown C-1 District. The previous zoning code allowed them with a conditional use permit. Mr. Schieb asked the Planning Commission for input on these questions: In what capacity do we if we want to allow drive thrus in the downtown? Stacking? Traffic? Pedestrian realm impacts? Noise? Light? Design (# of lanes, dimensions, parking impacts, curb cuts, etc)?

Commissioner Zelinske believes we need to allow with restrictions in downtown. The Planning Commission agreed that they need to be allowed with restrictions.

Mr. Scheib stated that this could be handled as “permitted with standards” and if there are infractions then it is a code violation or it could be a conditional use permit.

This will be brought back as a public hearing at the February meeting for public input. It was also suggested to get input from the Kasson Chamber of Commerce.

ADJOURN 7:23PM

Respectfully Submitted,

Linda Rappe, City Clerk

STAFF REPORT

TO: Planning and Zoning Commission
FROM: Laura Chamberlain, Consulting Planner, HKGi
DATE: February 1, 2021
SUBJECT: Ordinance Updates: Amending and Revoking Variances
MEETING DATE: February 8, 2021

BACKGROUND

- The City adopted an updated Land Use Title in October 2020, including a complete update for the Zoning Chapter, 154.
- As new code language is being implemented, minor questions and needs for clarification has arisen
- In late 2020, the Planning and Zoning Commission saw a need to clarify the City's authority to amend and/or revoke variances, and what circumstances would trigger such a process
- In January, the Planning and Zoning Commission recommended that City Staff draft language related to these administration procedures

REVIEW PROCEDURE

Zoning Amendment

City Code § 154.069 states that changes to the provisions of Chapter 154: Zoning, may proceed with a recommendation by the Planning and Zoning Commission. The Planning and Zoning Commission should consider in their recommendation, and the City Council should consider in their decision, the compliance of the zoning amendment with the overall guidance of the Comprehensive Plan.

Public Hearing

City Code § 154.069 requires a public hearing for review of the zoning amendment be held by the Planning and Zoning Commission. The public hearing notice for the amendment was published in the Dodge County Independent and posted on the City website.

DISCUSSION

- Language for variances updated to clarify the following:

- A property owner may initiate a process to amend or revoke an existing variance for their property; this process has the same steps as if applying for a new variance
- The City may initiate a process to revoke an existing variance if the property is found to be in violation of the conditions of approval of said variance and the owner does resolve those violations as the City goes through enforcement actions. In their role as the Board of Adjustment and Appeals, the City Council already had the authority to take such actions, but the updated language of this ordinance gives clarification on the process and timing involved
- Some additional elements were added to the procedures for Conditional Use Permits, giving some clarifying language under what circumstances CUPs may be amended or revoked.

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission make recommendation to the City Council to approve the draft ordinance language related to administration and enforcement of variances and conditional use permits.

CITY COUNCIL REVIEW

In the event a recommendation is received from the Planning and Zoning Commission, it will be forwarded to the City Council for action at an upcoming meeting.

ATTACHMENTS

- A. Draft Ordinance: Ordinance Regarding Administration and Enforcement of the Zoning Chapter of the City Code
- B. Draft Resolution: Resolution Authorizing Publication of Ordinance by Title and Summary

**CITY OF KASSON
ORDINANCE NO. XX-2021**

**ORDINANCE REGARDING ADMINISTRATION AND ENFORCEMENT OF THE ZONING
CHAPTER OF THE CITY CODE**

The City Council of Kasson does ordain:

Section 1: Chapter 154, Section 154.067(E)(2) is hereby amended to add the following underlined text:

(2) Effect of Approval

- (a) If a conditional use permit is approved or approved with additional conditions, all future use of the land and structures erected on the land pursuant to the permit shall comply with its terms and conditions.

(b) Amendment

- (i) A property owner may request an amendment to the conditions of an existing conditional use permit by submitting a full application for a conditional use permit and going through the full procedure described in §154.067
- (ii) In their review, the Planning and Zoning Commission and the City Council shall consider the original conditions of the approved CUP and find that the amended condition(s) are no longer relevant, are in need of updating, or need to be removed.

(c) Revocation

- (i) The City may call for the revocation a conditional use permit when it finds that at least one of the following circumstances exists:
 - a. The approval was obtained by fraud
 - b. Where a conditional use permit has been issued and no work thereon has commenced, or the use has not yet commenced, within 12 months of the date of granting the conditional use permit, excluding time during which the property owner can demonstrate: (1) The City had pending before it an application for a permit or land use entitlement directly related to, or for the purpose of, conducting said use; or (2) A valid building permit directly related to said use or activity was in effect and was being diligently pursued; or (3) The property owner has been actively negotiating to sell the property, as evidenced by a purchase and sale agreement, proof of escrow, or other similar binding agreements, or the property is subject to a binding

lease with a tenant who is diligently pursuing a business to re-establish the use on the site.

- c. In the event that the applicant violates any of the conditions set forth in the conditional use permit.
- (ii) Should revocation of a conditional use permit be called for, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with § 154.065(J).
- (iii) The public hearing shall be held by the Planning and Zoning Commission. If the Planning and Zoning Commission finds that the continuation of the conditional use is in violation of this Chapter, the Planning and Zoning Commission shall recommend the City Council revoke the conditional use permit.
- (iv) The City Council shall act upon the recommendation of the Planning and Zoning Commission within 30 days of receiving the recommendation. The Zoning Administrator shall, in writing, inform the individual or party in question of the action of the Council and shall enforce the action taken.

Section 2: Chapter 154, Section 154.068(F)(2) is hereby amended to delete the following strikethrough text and add the following underlined text:

(2) Effect of Approval

- (a) Approval of the Variance shall expire if no work thereon has commenced within 12 months of the date of approving the Variance.
- (b) The City Council, in its capacity as the Board of Adjustments and Appeals and consistent with the authority granted by law, may grant a property owner a revocation or an amendment to an existing Variance; the property owner may start the process by submitting a full application for a variance and going through the full procedure described § 154.068.
- (c) Enforcement and Revocation
 - (i) Should the property violate any conditions of approval for the Variance, the Zoning Administrator shall proceed through enforcement actions as described in § 154.080 through § 154.083.
 - (ii) Should those enforcement actions still not result in remedying the violated conditions of approval, then the Zoning Administrator shall notify the property owner in writing that the City will commence the revocation process in 30 calendar days if the violated conditions have not been remedied. After 30 days, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with § 154.065(J).

- (iii) The public hearing shall be held by the Planning and Zoning Commission. If the Planning and Zoning Commission finds that the property is in violation of the conditions of the variance, the Planning and Zoning Commission shall recommend the City Council revoke the variance.
- (iv) The City Council shall act upon the recommendation of the Planning and Zoning Commission within 30 days of receiving the recommendation. The Zoning Administrator shall, in writing, inform the individual or party in question of the action of the Council and shall enforce the action taken.

Section 3: Chapter 154, Section 154.084 is hereby amended to delete the following strikethrough text and add the following underlined text:

154.084 Revocation

Instead of, or in addition to any of the remedies in § 154.083, failure to comply with the conditions of a conditional use permit, a variance, or the ordinances of the City shall result in the conditional use permit or variance being revoked by the City Council, as described in § 154.067 and § 154.068. ~~Revocation proceedings shall require a public hearing with notice and due process according to § 154.02.21(J), except that the City Council may waive Planning and Zoning Commission review and comment.~~

Section 4: This ordinance is effective upon adoption and official publication.

Adopted by the City Council this XX day of February, 2021.

Mayor Chris McKern

Attest: Linda Rappe, City Clerk

STAFF REPORT

TO: Planning and Zoning Commission
FROM: Laura Chamberlain, Consulting Planner, HKGi
DATE: February 3, 2021
SUBJECT: Ordinance Updates: Drive Through Businesses
MEETING DATE: February 8, 2021

BACKGROUND

- The City adopted an updated Land Use Title in October 2020, including a complete update for the Zoning Chapter, 154.
- As new code language is being implemented, minor questions and needs for clarification has arisen
- In January, the Planning and Zoning Commission discussed the new provisions related to drive through facilities and recommended that City Staff draft language to better address the impacts of this use

REVIEW PROCEDURE

Zoning Amendment

City Code § 154.069 states that changes to the provisions of Chapter 154: Zoning, may proceed with a recommendation by the Planning and Zoning Commission. The Planning and Zoning Commission should consider in their recommendation, and the City Council should consider in their decision, the compliance of the zoning amendment with the overall guidance of the Comprehensive Plan.

Public Hearing

City Code § 154.069 requires a public hearing for review of the zoning amendment be held by the Planning and Zoning Commission. The public hearing notice for the amendment was published in the Dodge County Independent and posted on the City website.

DISCUSSION

- Drive-through businesses are now proposed as conditional uses within the R-C and C-1 districts. The use will remain permitted with standards for the C-2 and C-3 districts.
- The language of the use-specific standards has been updated to address the following:
 - Setbacks from other uses

- Architecture/Style
- Site Layout & Internal Circulation
- Impact on Vehicular and Pedestrian Traffic
- Screening, Lighting, and Noise
- Special considerations when adjacent to a residential property

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission make recommendation to the City Council to approve the draft ordinance language related to drive through businesses.

CITY COUNCIL REVIEW

In the event a recommendation is received from the Planning and Zoning Commission, it will be forwarded to the City Council for action at an upcoming meeting.

ATTACHMENTS

- A. Draft Ordinance: Ordinance Regarding Drive Through Businesses
- B. Draft Resolution: Resolution Authorizing Publication of Ordinance by Title and Summary

**CITY OF KASSON
ORDINANCE NO. X.X-2021**

ORDINANCE REGARDING DRIVE-THROUGH BUSINESSES

The City Council of Kasson does ordain:

Section 1: Chapter 154, Section 154.112 is hereby amended to add the following underlined text to the relevant table rows:

	R-1	R-1A	R-2	R-3	R-C	C-1	C-2	C-3	I-1	I-2
Restaurant with drive-through or drive-in					<u>CUP</u>	<u>CUP</u>	PS	PS		
Services otherwise allowed with drive-through or drive-in					<u>CUP</u>	<u>CUP</u>	PS	PS		

Section 2: Chapter 154, Section 154.205(B) is hereby amended to delete the following strikethrough text and add the following underlined text:

(B) Restaurant with Drive-Through or Drive-In

- (1) Drive-through facilities and stacking areas shall not be within 100 feet of any parcel that is zoned residential, or has an occupied institutional building, including but not limited to schools, religious institutions, and community centers unless the entire facility and stacking areas are separated from said parcel by a building wall.
- (2) Drive-through facilities and stacking areas shall be designed to meet the following:
 - (a) Located where they will not interfere with parking spaces, aisles, loading areas, through traffic, vehicle or pedestrian circulation, or driveway access.
 - (b) Allow drivers not using the drive-through, or wishing to exit the drive-through area, to bypass the drive-through lane(s).
 - (c) Drive-thru windows, drop boxes, menu boards, and associated or similar structures shall be located to the rear or side of the principal building, and must incorporate landscape screening, decorative fences, walls, or a combination of these elements to minimize their view from the street.
 - (d) Only one lane shall be provided for queuing; this lane shall be a minimum of three stacking spaces leading to the menu or other first-point of contact.
 - (e) Queuing areas shall be designed so that queues will not block or intersect the sidewalk or road right-of-way

- (f) Curb-cut entrances for queuing driveways and exit driveways shall be consolidated with any other driveway entrances or exits on the site.
- (g) Curb-cut entrances to the site shall be located so that access can be provided without generating significant traffic on local residential streets.
- (h) Drive-through lanes should not interfere with building entrances
- (i) Pedestrian access shall be provided from each abutting street to the primary entrance with a continuous four (4' 0") foot-wide sidewalk or delineated walkway. Pedestrian walkways should not intersect the drive-through drive aisles, but where they do the walkways shall have clear visibility and shall be delineated by textured and colored paving

~~Stacking shall be provided for six cars per customer service point and shall comply with all yard requirements.~~

~~This use shall only be permitted when it can be demonstrated that the operation will not have a significant adverse effect on the existing level of service of adjacent streets and intersections.~~

~~The drive-through facility shall be designed so it does not impede traffic or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian or vehicular conflicts.~~

- (3) All drive-through lanes shall be clearly identified using striping, landscaping, and/or signs.
- (4) Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.
- (5) Any canopy as part of this use shall be compatible with the architectural design and materials of the principal structure.
- (6) Where feasible, drive-through windows, drop boxes, menu boards, and associated or similar structures should be located to the rear or side of the principal building, and must incorporate landscape screening, decorative fences, walls, or a combination of these elements to minimize their view from the street.
- (7) All new lighting must be LED, fully shielded, be no brighter than needed for the task, and shine only where it is needed. Lights should have a correlated color temperature (CCT) of 3,000 Kelvin (K) or lower, and dim or turn off at 11PM or one (1) hour after close of business, whichever is later. Existing lighting should be retrofitted or replaced to meet these standards.
- (8) Menu boards must be no brighter than needed for the task, be lit with LED lights of a correlated color temperature (CCT) no higher than 5,000 Kelvin (K) (ideally 4,000K or lower), and be turned off when the drive-thru closes.
- (9) Any associated speaker system shall emit no more than fifty (50) decibels and at no time shall any speaker system be audible above daytime ambient noise levels

beyond the property lines of the site. The system shall be designed to compensate for ambient noise levels in the immediate area.

- (10) When a drive-through facility is adjacent to a residential use, the additional following shall apply:
- (a) Fencing, screening, berming, or a combination of, at least three feet in height shall be installed between drive-through facilities, including stacking areas, and adjacent residential uses to block direct lighting from headlights.
 - (b) A lighting plan shall be require showing the proposed lighting of the site. The lamination measurement at the property lot line adjacent to a residential use may not exceed 0.30 footcandles

Section 3: Chapter 154, Section 154.206(B) is hereby amended to delete the following strikethrough text and add the following underlined text:

- (1) See standards established in § 154.205(B). Drive-through facilities and stacking areas shall not be within 100 feet of any parcel that is zoned residential, or has an occupied institutional building, including but not limited to schools, religious institutions, and community centers unless the entire facility and stacking areas are separated from said parcel by a building wall.
- (2) ~~Stacking shall be provided for six cars per customer service point and shall comply with all yard requirements.~~
- (3) ~~This use shall only be permitted when it can be demonstrated that the operation will not have a significant adverse effect on the existing level of service of adjacent streets and intersections.~~
- (4) ~~The drive-through facility shall be designed so it does not impede traffic or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian or vehicular conflicts.~~
- (5) ~~Access shall be located so that access can be provided without generating significant traffic on local residential streets.~~
- (6) ~~Any canopy as part of this use shall be compatible with the architectural design and materials of the principal structure.~~

Section 4: This ordinance is effective upon adoption and official publication.

Adopted by the City Council this XX day of February, 2021.

Mayor Chris McKern

Attest: Linda Rappe, City Clerk

**CITY OF KASSON
RESOLUTION NO. XX-21**

**RESOLUTION AUTHORIZING PUBLICATION OF
ORDINANCE 2021-XX BY TITLE AND SUMMARY**

WHEREAS, the City Council of the City of Kasson has adopted Ordinance No. 2021-XX Regarding Drive Through Businesses; and

WHEREAS, Minnesota Statutes, Section 412.191, subdivision 4, allows publication by title and summary in the case of lengthy ordinances; and

WHEREAS, the following summary of Ordinance No. 2021-XX has been approved by the City Council of the City of Kasson as clearly informing the public of the intent and effect of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Kasson has reviewed the following summary of the ordinance and approved its publication in accordance with Minnesota Statutes, Section 412.191, subdivision 4:

Ordinance No. 2021-XX has been approved by the City Council of the City of Kasson. The Ordinance regards the regulation of businesses with drive through facilities. Changes within the chapter include modifications to use-specific standards related to drive through businesses as well as adding drive through businesses as uses requiring a conditional use permit in the R-C Residential-Commercial Mixed Use District and the C-1 Central Business District.

BE IT FURTHER RESOLVED that the City Clerk keep a copy of the entire text of the ordinance in their office at City Hall for public inspection.

Passed by the City Council this XXth day of _____, 2021.

Mayor Chris McKern

Attest: Linda Rappe, City Clerk