

TO: Knoxville-Knox County Planning Commission

FROM: Knox County Planning Alliance

DATE: 2023 Jan 11

RE: 11-C-22-OA – proposal for additional uses in CA/CB zones and standards for drive-thru

Dear Planning Commissioners,

Adding standards and guidance for drive-thru uses is an excellent evolution for our zoning code. The standards provide certainty and clarity for property owners – both ones that desire to introduce a drive-thru use, and property owners and residents adjacent to the proposed drive-thru use. The staff has done a terrific job on the proposal introduced. KCPA does have a few concerns and proposals for how to address those. Please see the below, and the redlined ordinance that we will provide as a separate comment.

We have also looked at the proposal for adding additional housing options in CA and CB zones as discussed below, and suggest a clarification to make it easier to understand.

Landscaping screens are a key mitigation measure. What happens when required landscaping is not maintained? We have an example below.

Finally - a lot of the concern involves parcels in the Rural Area that have carried-over CA and CB zoning for decades. Much of the 'art' in crafting this ordinance update involves accommodating CA and CB zoning, which is no longer recommended in the Rural Area. This is the root cause of tension with this ordinance, and could be resolved if the county initiated an administrative rezoning to convert those CA and CB parcels to CR or other zones that are recommended for the Rural Area.

Often our Plans (sector or small area) make recommendations which are never implemented. Our Board of Advocates is excited to see implementation of some of the recommendations of the Alcoa Highway Corridor Study. We thank the Planning Staff for their thoughtful research, analysis, and work on this proposal. We encourage you to discuss and provide feedback to the staff at this month's meeting.

### [Additional Residential Uses](#)

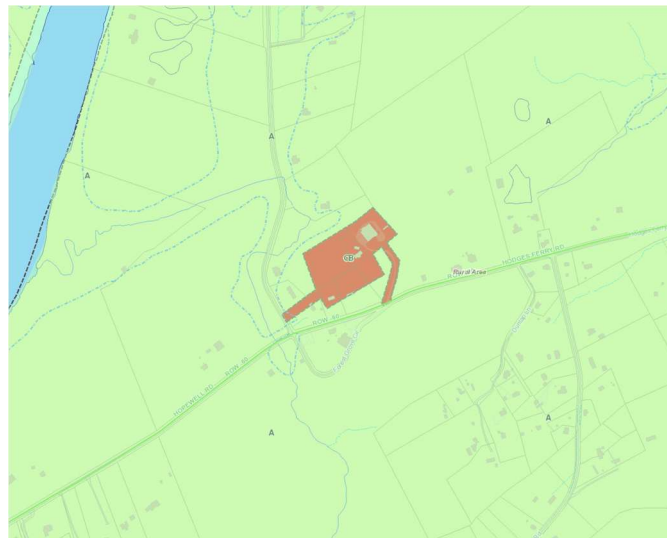
For the CA and CB zones: the proposed allowable density of up to 24 units may conflict with density limits from the Sector Plan, General Plan, or Growth Plan. As an example: for a CA-zoned parcel in the Rural Area (which there are many such parcels), the proposed zoning ordinance lists a use permitted on review as a multi-family structures at a density of up to twenty-four dwelling units per acre. Many people will read that and say "Great – I can apply for 24 units per acre." Meanwhile, the Growth Plan

specifies a limit of consideration of 1 to 3 units per acre in the Rural Area. The General Plan also specifies that same limit in the Rural Area.

The applicant will have to go through a Use on Review application, which will be guided in part by 4.10.14: “The use is consistent with adopted plans and policies, including the general plan and the sector plans.”

The issue is that the proposed zoning ordinance states a density, without directing a reader to any limits imposed by the relevant General Plan or Growth Plan [The existing RB zoning ordinance also has this shortcoming]. That’s a nuance that is difficult for property owners and applicants to follow. It also sets up potential conflicts, where a question is raised “Does the zoning ordinance density trump the General Plan? The Growth Plan?”

As an example: This CB parcel, on Hodges Ferry Rd south of the French Broad river and just northwest of Johnson University, is in the Rural Area, with an Ag land use classification surrounded by Ag land. As written, the zoning ordinance would lead an owner to think they could do a 24 unit development on here, and apply for a Use on Review. They would be limited to... how many units per acre? 3 if you follow the Growth Plan and General Plan, 1 if you look at the South County Sector Plan for the Ag Land Use Classification.



KCPA advocates for clear ordinances that are easy to understand. We encourage an additional statement about being consistent with the adopted plans and policies and have included that in our redline.

- Up to one unit per acre in rural areas with environmental constraints or infrastructure inadequate for greater densities.
- Low-density 1 to 3 du/ac in rural areas with infrastructure.
- Low-density 1 to 5 du/ac in planned growth areas.
- Low-density 1 to 6 du/ac within the City of Knoxville.
- Medium-density 6 to 12 du/ac in planned growth and urban growth areas; appropriate along collector or arterial roads, waterfronts, and as buffer zones between lower density residential and more intense uses.
- Medium-density 6 to 24 du/ac in urban growth areas adjacent to neighborhood and community centers.
- High-density over 24 du/ac, appropriate in downtown and UT area, and in regional activity centers; should have good access to transit.

## Drive Through Uses

### Questions to Consider

First - In what scenario(s) would a drive-thru use be compatible with an adjacent residential use? For consideration:

- A. Would a bank drive-thru lane next to a single-family residence be appropriate? Perhaps – a key factor is the limited hours of the drive-thru – usually 8-6PM during weekdays.
- B. How about a drive-thru open until midnight or 2AM (Taco Bell, Krystal)? The Taco Bell drive-through on Millertown Pike is often backed up 8-12 cars deep in the late evening hours. That's a lot of cars idling, with exhaust and fumes, next to a residence while the occupants are trying to sleep. That situation clearly creates a conflict and injures the use and value of adjacent property.
- C. What about a drive-through located next to an empty lot, or a field that is zoned residential or Ag? While introducing a drive-through doesn't impact current use, it would impact the use and enjoyment of the adjacent property owner if and when they do wish to build a residence there, which they are granted by right. By introducing the drive-through, the value and future uses of that adjacent property are diminished.
- D. What about a drive-through for a coffee shop, or donut shop, that opens at 6AM? If you are a family with a young child, would you want the noise from vehicles in a drive-through lane next to your child's bedroom waking the child up every day at 6AM? Or perhaps the occupant is a worker who fills a valuable need by working the second-shift work, arriving home after midnight every night and desiring to sleep until 9 or 10AM? Would they enjoy a drive-through outside their bedroom window with vehicles going through at 6:30AM?
- E. What about next to multi-family residences – apartments? We doubt that apartment residents would enjoy the units located next to a drive-through use that operates into late evening hours, or early morning hours?

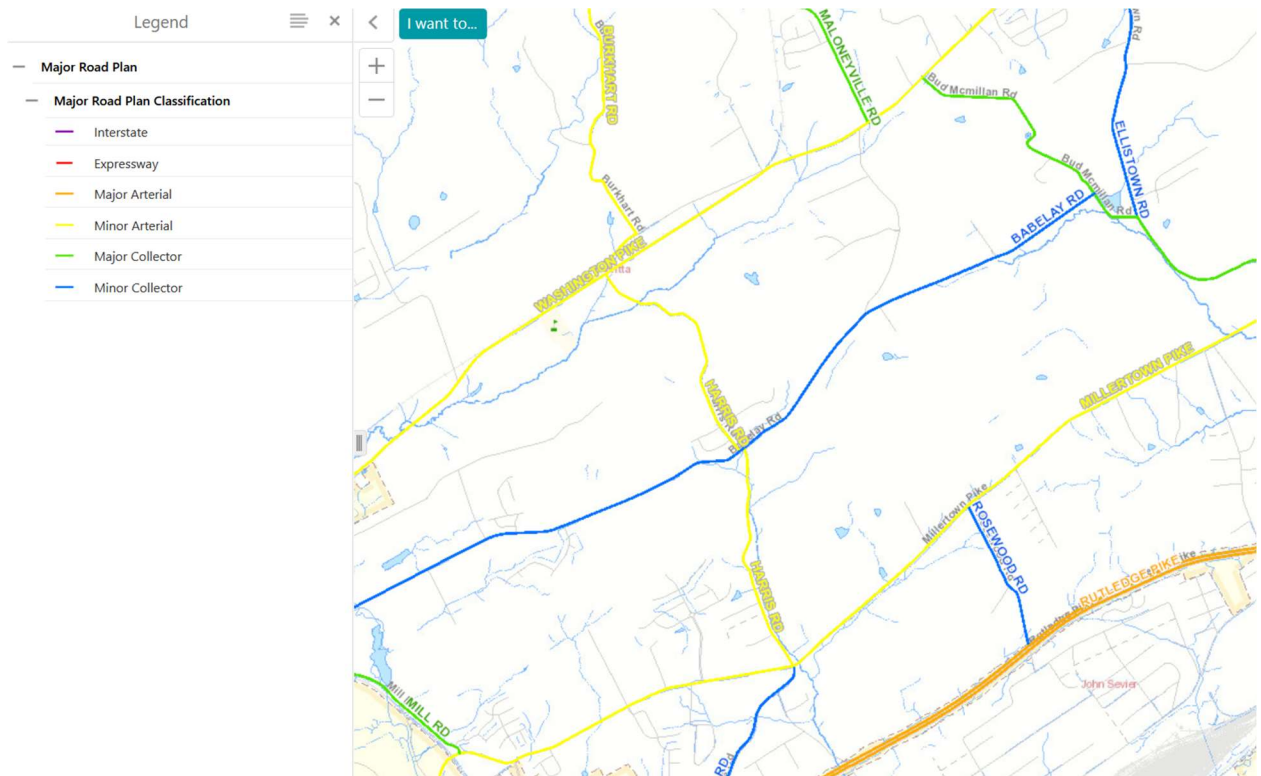
Then - how do you mitigate the introduction of idling vehicles? Drive-through uses are unique in that they introduce a large number of idling vehicles on private property, as opposed to business where the vehicle arrives and then is shut off. The only noise ordinance pertinent to vehicles in the county is [Sec 62-263](#). We would not expect a drive-through owner to be responsible for policing and enforcing that ordinance on their customers, but there are many vehicles operating on Knox County roads that do not have exhaust systems fully muffled, and this ordinance is scantily enforced. Simply put – there are a lot of vehicles and motorcycles with very loud exhausts on the roads and using drive-through facilities, and that loud exhaust crosses the property line.

## KCPA Position and Proposals

We support the addition of standards for drive-throughs. The standards and analysis by staff is excellent and we appreciate the thoughtfulness that has gone into them.

We do believe the impact of drive-through facilities on adjacent residential uses is substantial, and should be further limited by these proposals:

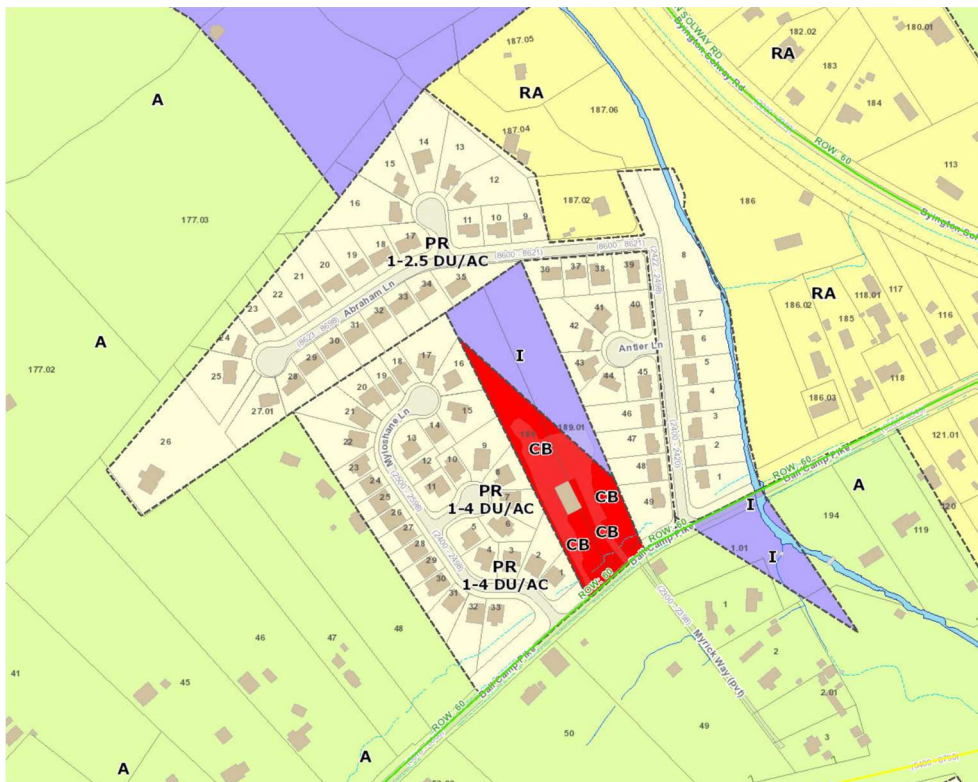
1. Restricting the CA zone use-by-right to major arterials only, and not minor arterials. Make drive-through facilities on minor arterials a use-on-review. As an example of why this is appropriate, the roads depicted in 'yellow' below are minor arterials, with primarily residential use out in the more rural areas of the county. A drive-through use by right on Harris Road or Burkhardt Road is not something those residents are expecting if property is zoned CA, but it would be allowed. We urge you to limit the use-by-right to major arterials – roads like Rutledge Pike, Alcoa Hwy, Chapman Hwy, Clinton Hwy, W Emory Rd, John Sevier Hwy, Broadway, Asheville Hwy, Middlebrook Pike.



2. For the CB zone, make drive-through facilities on *collector* roads a use permitted on review. While there are far fewer CB zones on collector roads, the impact of a use-by-right in those locations is substantial. The public is not aware of this proposed change and we believe most of them would be shocked to find out a drive-through use was being allowed by-right. As an example, below is a parcel on Babelay Rd, a minor collector, zoned CB, surrounded by residential zoning and uses:



Or this one on Ball Camp Pike, a major collector, with CB in between two subdivisions:



[Alternatively: there are a number of CB parcels in areas of the county where, when you look at the maps, they probably shouldn't be – they are a legacy of prior zoning maps. The county could propose rezoning those to CA, CN, or CR, and thus address the real issue of old zonings staying in place even when sector plans and growth patterns dictate. The same can be said of Industrial



land, also seen in the 2<sup>nd</sup> picture on Ball Camp Pike – there is a lot of Industrial land that was along railroads years ago that should probably be rezoned to more appropriate classifications. A rezoning would address that, instead of having existing zoning wag the tail of updating our zoning ordinance text.]

3. Adding an additional design practice to discourage under 4.108.1.C – discourage the location of stacking spaces or order bays long shared lot lines with residential uses or zones.
4. Specifically allowing Planning Commission to impose limits on operating hours as a condition of the approval of a use-on-review. This gives Commission an additional tool to help mitigate adverse impacts and gives Codes Enforcement the authority to enforce the condition.

## **Background and Analysis**

Drive-through uses introduce noise, lighting, and air pollution that may cross a property boundary. For residences adjacent to drive-throughs, crossing the boundary line onto them certainly “significantly injure[s] the value of adjacent property by noise, lights, fumes, odors, vibration, traffic congestion or other impacts which may detract from the immediate environment.” This is one of the standards (4.10.17) set forth in Article IV for Uses Permitted on Review that could cause a use to be inappropriate.

The proposed drive-through facilities standards do a good job of measuring and mitigating the impact of the built-facility regarding noise and light pollution.

However, the zoning ordinance does not have control over the vehicles that use the drive-through facility. Those vehicles emit noise and light pollution, and internal combustion engines also emit air pollution. Landscaping screens may be effective at mitigating the light pollution, and the proposed standards offer good measures. What zoning standards cannot effectively control are the noise and fumes pollution emitted by vehicle engines and their entertainment systems. Vehicle noise pollution is particularly notable, and a drive-through facility for vehicles introduces idling vehicles as the primary occupant of that use. The county has minimal noise standards in place for vehicles, and those standards are rarely enforced (and often violated).

## **Noise**

As part of prior research, one of our board members visited a convenience store with a Marcos Pizza drive-through in Maryville (1764 W Broadway Ave) on the evening of Monday, March 14, 2022. The store is constructed to similar standards as our CA zone for landscaping and set-back. The drive-thru is adjacent to adjoining residential property.



Figure 1 - E-Z Stop, 1764 W Broadway Ave, Maryville

Drive-Through Noise: They obtained a decibel reading of 70.7 dB LAeq, with a max level of 85.1 dB and LCPeak of 101.1 dB at the property line along where the drive-thru is, with residential adjacent. When they made the reading, there was a truck with rumbling exhaust waiting at the drive-thru for approximately 3 minutes, *which they noticed reflected off the side of the E-Z Stop building as well, increasing the volume* (volume decreased when the truck moved past the building into more open air). The nature of a drive-through, usually next to a building, means that noise is reflected off the building wall and amplified to adjacent property. They also noticed another truck that went through the drive-thru with suspension that creaked and made excessive noise. Noise from the convenience store use (separate from the drive-through) was difficult to isolate from the background noise of busy US 321, but the drive-through noises were noticeable at the adjacent property line.

#### Installation and Maintenance of Installed Landscaping

As an exhibit of landscaping poorly installed or not installed, there is a Dollar General at 2725 Shiptown Rd (southeast corner of Rutledge Pike). It is zoned CN, which requires landscaping to be installed. The store was built in 2010-2011. Some landscaping is installed but very poorly maintained.

This is what the landscaping plan presented to this Board of Zoning Appeals for items 5c-e in the Jan 2011 meeting where the applicant requested parking space number and size variances and a sign variance

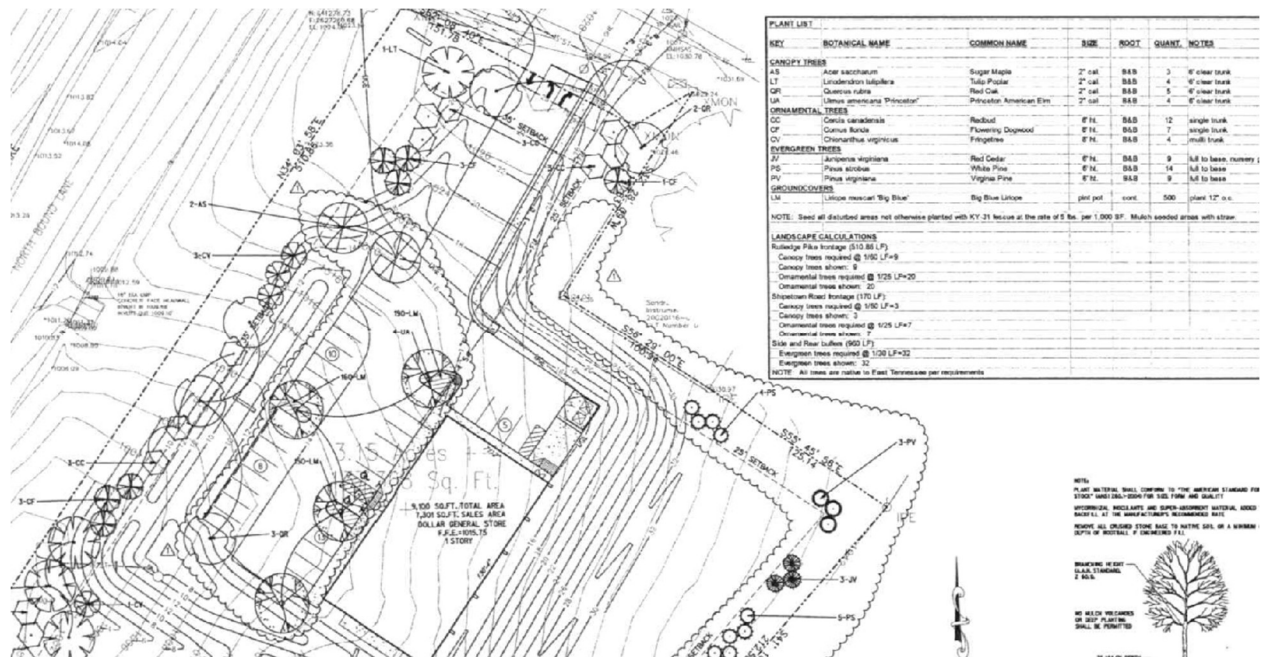


Figure 17 - Landscaping Plan from BZA Jan 2011 item 5c for 2725 Shipetown Rd



Figure 18 - 2725 Shipetown Rd Dollar General - CN Zone - Front Setback Landscaping

From that plan, supposedly from right-to-left in the above picture there are two Flowering Dogwoods (should be 3 planted), a Sugar Maple, and then two Fringetrees (3<sup>rd</sup> is just at edge of frame). We will let the viewer judge the health and maintenance of these which were planted nearly 10 years ago.





*Figure 19 - 2725 Shipetown Rd Dollar General – None of the required 4' planting around 50% of building exterior (there is none on the front or other sides either)*

The business may have installed some, or most, of the required landscaping, but lack of maintenance has diminished or reduced the mitigation usefulness of the landscaping. The pertinent zoning ordinances state that it must be “landscaped with” [and then provides the required landscaping], but adherence to maintaining the required landscaping is lacking.

What can Planning Commission do to empower and require enforcement of landscaping requirements?  
What recommendations does the Planning Commission have for County Zoning?