

# City of MARKHAM

## Task 8: **Review & Assessment of Drive-Through Facilities**

Comprehensive Zoning By-law Project



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# 1. INTRODUCTION

In the past decades provincial and municipal planning policies in Ontario have evolved to prioritize pedestrian and transit-oriented development and account for the environmental impacts of urban growth. Since then many municipalities, including the City of Markham, have updated their Official Plans to better reflect the goals of reducing automobile dependency and creating healthier, safer and more pedestrian-friendly urban environments. Along with these efforts, municipalities have begun to pay attention to the implications of drive-through facilities and to some of the challenges they pose in terms of supporting broader planning objectives. Given that drive-throughs are inherently car-oriented, they pose concerns around pedestrian safety and around key issues such as increased volumes of vehicular traffic, site design constraints, compatibility with surrounding land uses, and adverse impacts such as noise, light pollution, litter and emissions associated with idling vehicles.

In Markham, the need to establish a framework for dealing with drive-through development applications was first recognized in a Background Report prepared for the City in 2009. The report informed the preparation of design guidelines for the City, the *Town of Markham's Drive Through Facilities Design Guidelines*, which were endorsed by Council in 2010. The guidelines were developed with the intent of mitigating the adverse impacts of drive-throughs and maintaining the intent of Markham's Official Plan. In addition to providing direction to assist in regulating the layout, built form and appearance of drive-through facilities, the design guidelines aimed to inform the development of zoning provisions related to drive-throughs in the City of Markham. These zoning provisions have not yet been implemented.

Since the preparation of the Background Report and the endorsement of the Design Guidelines by Council in 2010, Markham has passed a new Official Plan. The City is now undertaking a Comprehensive Zoning By-law Review process, which aims to consolidate Markham's former zoning regulations and implement the Official Plan's updated policy framework for the City. This context creates a favorable opportunity for the City of Markham to evaluate its current approach to drive-through regulations and take the steps required to ensure that appropriate regulations are put in place and aligned to reflect the overall direction of Markham's Official Plan.

The goal of this paper is to assist Markham in these efforts by: (i) assessing the City's previous efforts around dealing with drive-through facilities through a review of existing regulations and related documents; (ii) identifying key issues to be considered in relation to drive-through regulations, based on the experiences of Markham and other municipalities in Ontario; (iii) and assessing how these issues can best be addressed in a zoning by-law, to provide options for the City of Markham to consider in the City's new comprehensive zoning by-law.

The paper will revisit and build on previous research efforts undertaken by the City of Markham around drive-through facilities, and will seek to validate previous findings and highlight key issues by assessing these findings in comparison with those of other studies, and with the experiences of other municipalities in Ontario.

## 1.1 Methodology

The findings presented here are based on a review of Markham's existing zoning by-laws, the Official Plan, the Drive Through Facilities Design Guidelines and its associated Background Report, and staff reports. In addition, five case studies reviewing the experiences of other municipalities in Ontario - Mississauga, Toronto, Oakville, Hamilton and Ottawa - have been included in the Appendix to provide a basis for comparison. Relevant studies and planning reports prepared by other municipalities in recent years were also reviewed. These include the Town of Ajax's *Drive-through Study - Discussion Paper* (2012); the Township of King's *Drive-Through Facilities Information Report* (2012); and the Town of Caledon's *Study of Drive-through Service Facilities* (2012). These studies and reports further assess the experiences of a number of other municipalities, and therefore provide additional evidence and examples of best practices in regulating drive-throughs in the Ontario context.

This paper may be further refined to incorporate feedback obtained through a public consultation session scheduled to take place in the Fall of 2015.

## 2. MARKHAM'S OFFICIAL PLAN

The City of Markham's new Official Plan was adopted by City Council in 2013 and was approved, in large part, by York Region in June 2014. The Official Plan provides guidance for future development and growth management in Markham as an urban, sustainable, diverse and socially responsible municipality. The overall intent of policies contained in the Plan is to promote environmental protection, good urban design, healthy communities, and transportation choices for Markham's residents, among other goals.

Chapter 8 of the Official Plan establishes that drive-through service facilities, where accessory to a permitted use, are subject to specific use policies within each of the land use designations. The specific use policies are outlined in Section 8.13.3. According to the policies, drive-through facilities, where permitted, should be designed to mitigate their potential impacts on adjacent uses, and in accordance with the applicable design guidelines. Specific provisions on the dimensions of and access to drive-through facilities are also included. Table 1 states the full provisions of Section 8.13.3.

### 2.1 Related Policies

Other related policies in the Official Plan that make reference to drive-throughs include the specific use policies that apply to Motor Vehicle Service Stations (Section 8.13.5), which establish that drive-through service facilities are permitted as an accessory use within the principal building or gas bar kiosk, subject to applicable design guidelines for motor vehicle service stations. In addition, a number of Area and Site Specific Policies, as outlined in Chapter 9 of the Official Plan, prohibit drive-through service facilities in certain areas. These include:

- The lands designated Mixed Use Mid Rise lands at 2880-2920 Major MacKenzie Drive East, 725-735 Markland Street;
- The Commercial lands north of Major MacKenzie Drive East between Highway 404 and Markland Street;
- The Mixed Use High Rise lands at 7161-7191 Yonge Street

- The Mixed Use Heritage Main Street lands; and
- The Mixed Use Mid Rise lands in the Yonge/Elgin corridor.

An additional policy establishes that in the South Don Mills Employment area, drive-through service facilities are not permitted within 20 meters of Woodbine Avenue.

**Table 1. Section 8.13.3 of Markham's Official Plan**

### **8.13.3 Drive-Through Service Facility**

#### **It is the policy of Council:**

8.13.3.1 **To mitigate** the potential impact of drive-through service facilities, including the vehicle stacking lane and order box, on adjacent uses resulting from traffic, noise, litter and light.

8.13.3.2 **That** in considering an application for *development approval* to permit the establishment of a drive-through service facility as accessory to a use provided for in this Plan, excluding a drive-through service facility accessory to a motor vehicle service station, Council shall be satisfied that the following requirements, where applicable, will be fulfilled:

- a. access to the facility, where feasible, shall be from a shared driveway or intersecting public street where located on the Highway 7 or Yonge Street Regional Rapid Transit Corridor as shown on Map 2 – Centres and Corridors and Transit Network or where located on an arterial road or minor collector road within a *heritage conservation district*;
- b. the facility shall be located on a site of 0.3 hectares or greater, and where located adjacent to low-rise residential or low-rise mixed-use development, the site shall be sufficiently sized to accommodate and mitigate all activities associated with the facility;
- c. the facility shall be designed in accordance with the applicable design guidelines to provide for:
  - i) sufficient separation from residential uses in order to mitigate impacts such as noise, litter, lighting and traffic;
  - ii) convenient and safe pedestrian access between the primary building entrance and adjacent sidewalks or walkways;
  - iii) a strong building edge to reinforce the streetscape;
  - iv) the appropriate location of vehicle stacking lanes; and
  - v) sufficient vehicle stacking to:
    - prevent queuing on public streets;
    - prevent interference with on-site pedestrian access, vehicle circulation and parking; and
    - minimize the visual impact on the streetscape.



## Task 8: Drive-Through Review

The City of Markham Official Plan's approach is similar to that of other municipalities that have recently passed new Official Plans. In Oakville and Ajax, for example, drive-throughs are directed away from central areas, towards large format commercial zones and along arterial roads. The Livable Oakville Plan prohibits new drive-through facilities within all of the Growth Areas, which represent the majority of the areas where Mixed Use land use designations are applied. There are also commercially designated areas outside of the Growth Areas where the Mixed Use land use designations apply and where drive-through facilities are not permitted. The Livable Oakville Plan also provides for a hierarchy of commercial land use designations to allow for a distribution of commercial centres to serve the community. Drive-throughs are generally permitted within the Core Commercial and Community Commercial centres as well as Business Commercial nodes, which are predominantly located along arterial roads.

The Town of Ajax's Official Plan Amendment 15, adopted in 2004, prohibits auto-related land uses in the Downtown Central Area and in certain location in the Uptown Central Area. These uses include motor vehicle service centres, motor vehicle gas bars, motor vehicle washing establishments, drive-through facilities, motor vehicle rental establishments, and taxi depots.

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### 3. EXISTING ZONING

Markham has been considering the implementation of specific zoning provisions for drive-through facilities since 2008, when the City began to face pressure to respond to a rising level of concern around the proliferation of drive-throughs. Markham's existing zoning framework does not yet have specific provisions to regulate drive-through facilities. Currently, development applications that involve drive-through facilities in Markham are subject to the applicable zoning and Site Plan Control.

Markham's existing zoning by-laws define drive-throughs either as a Drive-Through Service Facility or as a Drive-Through Service Use. In both cases, drive-throughs are described as follows<sup>1</sup>:

**Drive-Through Service Facility [or Drive-Through Service Use]** means a building or structure or part thereof where goods and/or services are offered to the public within a parked or stationary vehicle by way of a service window or kiosk, where goods, money or materials are exchanged. Kiosks within a parking garage or associated with a surface parking area are not considered to be drive-through service facilities [or uses]<sup>2</sup>.

Other relevant terms and definitions found in Markham's zoning by-laws include:

**Drive-In Restaurant<sup>3</sup> or Restaurant, Drive-In<sup>4</sup>**, which are both defined as a place where food and drink is served to the public, and which does not necessarily provide facilities for consumption thereof on the premises other than parking areas.

1 By-laws 177-96 and 2237 (2009-118) use the term Drive-Through Service Facility. By-laws 1767 (2003-255) and 2237 (2008-272) use the term Drive-Through Service Use.

2 By-law 2004-196 uses the same definition, however the last sentence reads instead as follows: "Parking attendant kiosks and security booths are not considered to be drive-through service facilities".

3 Found in By-law(s): 2237; 2571; 2612; 11-72

4 Found in By-law(s): 122-72; 77-73; 83-73; 119-73; 151-75; 88-76; 127-76; 250-77; 145-78; 162-78; 163-78; 184-78; 72-79; 91-79; 118-79; 134-79; 153-80; 72-81

and

**Restaurant, Fast Food**, which under By-law 165-80 means an establishment for the preparation and sale of meals for consumption both inside and outside the building(s) on the premises and as accessory thereto may offer drive-in, take-out, or packaged fast food service.

In a number of Markham by-laws, definitions associated with “Financial Institutions”, “Planned Shopping Centre”, “Shopping Centre”, “Restaurant, Take Out”, and “Retail Store” specify that these uses *shall not include a drive-through service use*.

The relevant zoning by-laws currently in effect in Markham that address drive-through service facilities are:

## By-law 177-96

Zoning By-law 177-96, which applies to New Urban Areas in Markham, contains a number of drive-through provisions that apply to specific areas and uses<sup>5</sup>:

### Special Provisions for the Retail and Mixed Use Zones (Section 4.1, Table A2)

- Gas Bars in zones AC1 and AC2: an accessory retail store and restaurant with a drive-through service facility is permitted provided the combined net floor area for both uses does not exceed 200 square metres
- The establishment of a drive-through service facility is not permitted in Zones NC1 and NC2 if associated with the following uses: Financial Institutions, Personal Service Shops, and Retail Stores; or in Zone NC3 if associated with the following uses: Personal Service Shops, Restaurants and Retail Stores.

### Drive-through service facilities are not permitted in the following specific areas:

- Business Park Area - west of Kennedy Road and north of Highway 407 (Section 7.175.4)
- Block B OS2 Zone – Non-Profit Fitness Centre or Public Recreational Establishment (Kennedy Road) (Section 7.176.1)
- Block C Standards for Business Park Area, Kennedy Road (Section 7.177.4)
- Lands on west side of Markham Road south of Major Mackenzie Drive East, within the areas identified as ‘W’, measured 30 metres from the intersection of Markham Road and Bur Oak Avenue and 30 metres from the intersection of Markham Road and Castlemore Avenue. This section specifies that in addition to drive-through service facilities, queuing lanes are also prohibited (Section 7.187)
- Lands on the south side of Bur Oak Drive West of Markham Road, within the area identified as ‘W’, measured 30 metres from the intersection of Markham Road and Bur Oak Avenue. Within the area identified as ‘Z’, measured 30 metres from Markham Road, queuing lanes located between the main wall and the Markham Road streetline are also prohibited (Section 7.188)
- Lands at the southeast corner of Markham Road and Kirkham Drive (Major Commercial), within 40 metres of the Markham Road streetline. Queuing lanes are also not permitted (Section 7.249)
- Lands east of Markham Road, north of the Golden Avenue Intersection (Major Commercial), within 40 metres of the south limit of the lands zoned MJC\*250 and/or within 40 metres of the Markham Road streetline. Queuing lanes are also not permitted (Section 7.250)

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5 Drive-throughs are not explicitly permitted or prohibited in other areas under Zoning By-law 177-96.

- Lands on the east side of Markham Road south of Kirkham Drive (Major Commercial), within 40 metres of the street at the south limit of the lands zoned MJC\*252. Queuing lanes are also not permitted (Section 7.252)
- Lands east of Markham Road, north of Environmental Channel (Mixed Commercial and Residential), within 40 metres of the Markham Road streetline, and the street at the north limit of the lands zoned CA2\*258. Queuing lanes are also not permitted (Section 7.258)
- South east corner of Highway 7 and Times Avenue. Queuing lanes are also not permitted (Section 7.261)
- Townhouse, Multiple Unit, & Mixed Use Buildings in Milliken Main Street - west side of Old Kennedy Road (Section 7.281)
- Mixed Residential/Retail/Office Uses - Old Kennedy Road Main Street, south of Aldergrove Drive (Section 7.283)
- Mixed Residential/Retail/Office Uses - Old Kennedy Road Main Street, North Of Aldergrove Drive (Section 7.284)
- Commercial/Residential – 4600 Steeles Avenue East (Section 7.286)
- Mixed Use Development on Old Kennedy Road (Section 7.312)
- North side of 16th Avenue, West of Kennedy Road - Village Grocer (Section 7.327)
- West of Old Kennedy Road and Aldergrove Drive (Section 7.369)
- Markham Stouffville Hospital and Town of Markham Community Facility Lands, Cornell Community (Section 7.371)
- Cornell Centre - lands north of Highway 7, west of Cornell Centre Boulevard (Residential Three Heritage Building) (Section 7.410)
- Cornell Centre - lands at the northwest corner of Highway 7 and Cornell Centre Boulevard (Community Amenity Two) - High Density - Mixed Use (Section 7.411)
- Neighbourhood Commercial (Sections 7.412 and 7.417)

#### **Additional Restrictions**

- Drive-through service facilities and queuing lanes associated with restaurants shall be set back at least 45.0 metres from the Major Mackenzie Drive streetline on sites located on the north side of Major Mackenzie Drive between highway 404 and Markland Street (Section 7.294), or on the north side of Major Mackenzie Drive between Markland Street and Woodbine Avenue (Section 7.295)
- On the south side of Elgin Mills, west of Woodbine Avenue (Clera Holdings Limited), an accessory retail store and restaurant with a drive-through service facility is permitted provided the net floor area for the restaurant with a drive-through service facility does not exceed 75 m<sup>2</sup> (Section 7.370)
- Drive through service facilities shall only be permitted if associated with financial institutions on Lots 6, 7 (Parts 1 and 2) and 8, Concession 9, northwest of Copper Creek Drive and the Town Arterial Road/Planned Link Box Grove Developments Inc. (Section 7.373)
- A Financial Institution with a drive-through service facility is the only use permitted on the east side of 9th Line, south of 16th Avenue – Fineway Properties (Section 7.466)

## By-law 2004-196

Zoning By-law 2004-196 applies to Markham Centre. It prohibits drive-through facilities on any lot, given that drive-throughs conflict with the planned function, tight parcel fabric and walkability envisioned for the Markham Centre area. The by-law adopts a Smart Growth approach and promotes the goals of strong communities, a strong economy and a clean and healthy environment, with reduced automobile dependency.

## Other By-laws

The majority of other parent by-laws permit drive-through facilities as an accessory use. In addition to the ones listed above, other by-laws that contain regulatory controls around drive-through facilities include Parking Control By-law 28-97, Idling Control By-law 2005-192, and Sign By-law 2002-94.

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## 4. MARKHAM'S DESIGN GUIDELINES FOR DRIVE-THROUGH FACILITIES AND BACKGROUND REPORT

Markham's *Drive-Through Facilities Urban Design Guidelines Background Report* was completed in 2009 with the intent of informing the preparation of urban design guidelines for drive-through facilities, and assisting the City of Markham in devising a zoning by-law framework for dealing with drive-throughs. In addition to an analysis of the planning policy framework effective in Markham at the time, the report provides a detailed review of the characteristics and impacts of drive-through facilities based on a survey of experiences of other municipalities in Ontario, and reviews the zoning approaches to drive-through regulations adopted by these municipalities<sup>6</sup>.

Markham's *Design Guidelines for Drive-through Facilities* were prepared based on the recommendations of the Background Report, and were endorsed by Council in June of 2010. The Guidelines incorporate much of the content of the Background Report, but further elaborate on the findings. The Background Report is attached to the Design Guidelines as 'Appendix A'. In addition to providing a more comprehensive policy context section, the Design Guidelines incorporate feedback from a public consultation process and provide specific direction for achieving appropriate forms of drive-through development through a set of 55 guidelines. The guidelines aim to assist in regulating the layout, built form and appearance of drive-through facilities while mitigating their potential adverse impacts. As stated in the document, the guidelines are meant to form the basis for and feed into the creation of amendments to the Zoning By-law.

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6 The Town of Markham Drive-Through Facilities Urban Design Guidelines Background Report reviews the zoning approach to drive-through facilities adopted by Toronto, Mississauga, Kingston, Oakville, Waterloo, Kitchener, Oshawa, Ottawa and London.

## 5. EXISTING DRIVE-THROUGH FACILITIES IN MARKHAM

As highlighted in the *Design Guidelines for Drive-through Facilities*, the most common type of drive-through facility in Markham and across the Greater Toronto Region is the fast food service restaurant. As of 2010, Markham had a total of 30 drive-throughs, out of which 24 were drive-through restaurants (including coffee and donut shops), one was a pharmacy, and 5 were financial institutions located either in stand-alone buildings, within commercial plazas, as part of an institutional complex, gas bar or commercial building, or as an attached restaurant with double drive-throughs<sup>7</sup>.

On a per capita basis, Markham had 1 drive-through facility per 8,719 residents in 2010. This is comparable to Mississauga, which had 1 drive-through facility per 8,571 residents. The highest number of drive-throughs in the Greater Toronto Area was found in the City of Vaughan, Markham's neighbouring municipality, which had 1 facility per 3,141 residents in 2010<sup>8</sup>.

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7 The Design Guidelines specify that 24 drive-through facilities in Markham were fast-food restaurants and one was a drive-through pharmacy as of 2010. Although not mentioned in the text, a photographic inventory of drive-throughs, which is included as part of the document, demonstrates that the remaining 5 drive-throughs were financial institutions.

8 Data obtained from: City of Vaughan. Report No. 4 of the Committee of the Whole (Working Session): Drive-Throughs - City of Vaughan Improvement and Potential Regulation of Drive Through Facilities, Proposed Regulations (Official Plan & Zoning) and Draft Design Guidelines. January 25, 2010. [http://meetingarchives.vaughan.ca/extracts\\_2010/pdf/04ws0125ex-10.pdf](http://meetingarchives.vaughan.ca/extracts_2010/pdf/04ws0125ex-10.pdf)

## 6. KEY ISSUES ASSOCIATED WITH DRIVE-THROUGH FACILITIES

### 6.1 Land Use Conflicts

Drive-throughs have the potential to cause adverse impacts on adjacent land uses. In comparison with other commercial uses, drive-through facilities tend to generate a higher level of outdoor activity and noise, especially when the facility operates 24 hours a day and 7 days a week. One of the most common concerns related to drive-throughs is the noise associated with speakers from order boxes, idling cars, and loud car stereos. Other concerns include light pollution due to on-site lighting and vehicle headlights, litter, and exhaust fumes from cars. Residential and institutional uses located near drive-through facilities are usually the most adversely affected.

### Zoning Approaches to Dealing With Land Use Conflicts

#### Location Criteria

Most municipalities regulate the proximity of drive-through facilities to residential and institutional uses. The majority of municipalities have taken steps to regulate drive-through facilities in mixed-use zones, and some have restricted drive-through facilities in local commercial zones that are found within close proximity to residential areas, as well as downtown commercial and business nodes.

The City of Toronto's zoning by-law prohibits drive-through facilities in residential or mixed-use zones containing residential permissions, and in the designated Centres of North York, Scarborough, Etobicoke, Yonge/Eglinton and the Downtown of the former City of Toronto. In Mississauga, drive-throughs are only permitted in Commercial or Employment/Industrial Zones. In Oakville, drive-throughs are directed toward major arterial roads to maximize usage and accommodate traffic volumes<sup>9</sup>. Most newer zoning ordinances for large cities in the U.S. also follow this "separation from residential"

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9 Town of Oakville. Drive-Through Facilities Zoning By-law Amendment. Planning and Development Council Meeting Report. April 19, 2010. Retrieved from: <http://www.oakville.ca/assets/2011%20planning/ps-DriveThruStudy.pdf>.



approach, and may extend the principle to low-intensity mixed use areas as well (i.e. drive-throughs may not be allowed in a low intensity district containing a mix of residential and non-residential uses).

As indicated in Section 2.1 above, a number of Area and Site Specific Policies outlined in Markham's Official Plan prohibit drive-throughs in specific mixed-use, commercial and employment areas. Similarly, Markham's Design Guidelines for Drive-through Facilities recommends the use of measures to mitigate negative impacts on adjacent uses. These include discouraging drive-throughs in Intensification Areas such as the Regional Growth Centres of Yonge and Highway 7 at Langstaff and Markham Centre, in Heritage Conservation Areas and Hamlet Areas, and in new communities within Markham that are served by Neighbourhood Commercial and Community Amenity areas, as these are intended to serve adjacent residential or business through trips made by active travel modes or public transit. Markham's zoning provisions should align with and respond to the direction of the Official Plan and the Design Guidelines by restricting drive-throughs in these areas.

### **Setbacks and Separation Distances**

Given that drive-throughs generate impacts related to traffic using stacking lanes, minimum setback and separation distance requirements must be applied together with locational criteria to ensure that traffic associated with drive-through uses can be adequately accommodated. Most municipalities require a minimum separation between the stacking lane associated with the drive-through and residential (and sometimes institutional) uses. The requirements vary considerably depending on the municipality. In the Town of Milton, for example, By-law 144-2003 requires queuing lanes and order boxes that use voice communication to be located no closer than 7.5 metres from any street line or any residential zone. In Oakville, a minimum 15 metre setback is recommended for all yards of a drive-through facility (including the order station) which abut a residential zone. In Kingston, Ontario, By-law 76-26 prohibits drive-through service facilities within 50 metres of a residential use or zone that permits a residential use.

Rather than stating a separation distance, some newer U.S. zoning ordinances state that no drive-through lane or related stacking lane may be located between the side of a primary structure and a residential zone district lot line. This has the foreseeable effect of making many commercial lots adjacent to residential zones unavailable for drive-through uses, since the lot can only accommodate "around-the-building" drive-through designs). Other U.S. ordinances do not ban drive-through and stacking lanes adjacent to residential district lot lines, and do not state minimum distances, but require extensive buffering and screening and speaker locations to minimize light, glare, and sound impacts on the adjacent residential area.

The City of Toronto Zoning By-law 569-2013 requires a 30 metre separation distance from all parts of the drive-through facility, including stacking lanes, to the edge of the lot line of any residential use or zone where residential uses are permitted. According to a study prepared by the Town of Ajax, the City of Toronto's standard is considered a benchmark. Although initially challenged by a number of appellants, the Ontario Municipal Board (OMB) ruled the following:

*"There is sufficient justification to provide for a minimum 30 meter separation distance between any drive-through facility and residential uses. A separation distance of 30 meters is not unreasonable. In some instances, greater separation may be necessary depending on site specific circumstances, the nature of the surrounding land uses, and the underlying use (fast food versus bank), with which the drive-through is associated. Similarly, separation distances less than 30 meters can also be evaluated in the context of existing site conditions. However, as a basis for determining an appropriate separation from residential zones, 30 meters provides protection and is not unduly restrictive for the industry. That is, the zoning*

*restrictions will afford an adequate level of protection, they are not a prohibition on drive-throughs across the city, and there is opportunity for exceptions to be made through site-specific rezoning applications”.*<sup>10</sup>

It is suggested that the City of Markham consider in its zoning by-law a separation distance of 30 metres between the stacking lane/order box and adjacent residential uses, at a minimum. This is consistent with the minimum distance recommended in Markham’s Design Guidelines for Drive-Through Facilities.

### **Impact Attenuation Measures**

Many municipalities have included the requirement for noise attenuation in their by-laws. For Commercial Zones, for example, Oakville requires acoustic and visual barriers consisting of a 7.62 metre landscaped buffer strip and a 1.8 metre high solid wood board fence or masonry wall, to be provided along any lot line that abuts a residential zone.

A few municipalities allow for minimized separation distances provided proper noise attenuation is provided. The City of London’s zoning by-law, for example, requires a minimum 30 metre separation distance from the edge of the drive-through lane or speaker location (whichever is closer) to the closest residential or institutional zone or lot line<sup>11</sup>. The distance may be reduced to 15 metres if a 2.4 metre high noise attenuation barrier is installed, and further reductions may be considered upon the City’s review and acceptance of mitigation measures identified by a noise study, prepared by a qualified noise consultant. A minimum 3 metre wide landscaped strip is required consisting of new or existing vegetation immediately adjacent to any noise barrier.

Other municipalities, such as the City of Kitchener have adopted the requirement of a noise study for drive-through applications within a certain distance to residential zones. According to the City of Kitchener By-law 85-1, all commercial uses that have a drive-through facility with an intercom order station and are situated within 60 meters of a Residential or Institutional Zone must comply with the Ministry of the Environment’s (MOE) noise levels for stationary sources of noise<sup>12</sup>, otherwise the drive-through is not permitted. A noise study demonstrating compliance, conducted by a professional engineer, is required to demonstrate that the drive-through facility or any noise walls installed prior to occupancy will not result in noise levels that exceed the maximum recommended<sup>13</sup>. Kitchener’s

10 Obtained from: Town of Ajax. Drive-through Study – Discussion Paper. February 2012, page 53. <https://www.ajax.ca/en/doingbusinessinajax/resources/DriveThroughDiscussionPaperFINAL.pdf>.

11 City of London Zoning By-law Z.1. Office Consolidation, October 2011. <http://www.london.ca/business/Planning-Development/zoning-by-law/Documents/CHAPTR04.pdf>

12 Except for lands fully developed for an Arena, Auditorium, Health Clinic, Health Office, Medical Laboratory, Social Services Establishment, Stadium or Veterinary Services. City of Kitchener Zoning By-law 85-1. Office Consolidation October 28, 2013. <http://app.kitchener.ca/Zonebylaw/Docs/PublishedCurrentText/Sections/Section%205%20-%20General%20Regulations.pdf>

13 The MOE states that the purpose of the Environmental Noise Guideline for Stationary and Transportation Sources is “to provide advice, sound level limits and guidance that may be used when land use planning decisions are made under the Planning Act, and the Niagara Escarpment Planning and Development Act. The MOE has no authority under the Planning Act and has no direct role in the land use planning process. This guidance is for land use planning authorities (such as municipalities, planning boards and other ministries), developers and consultants. It is intended to minimize the potential conflict between proposed noise sensitive land uses and sources of noise emissions and is intended to be supportive of the Provincial Policy Statement. Specifically, it may be applied in planning decisions concerning noise sensitive land uses that are proposed adjacent to facilities such as, but not limited to, airports, road and rail transportation corridors, industrial facilities, railway yards, aggregate facilities, major commercial facilities, water and sewage treatment facilities and waste sites”.

approach, however, is unusual. The requirement for a noise study is not commonly addressed through zoning by-law regulations, as it can be better addressed on an individual basis as part of Site Plan Control.

Few newer zoning ordinances in the U.S. require a formal noise study, but several cross-reference general city-wide noise standards to clarify that those will be applied and enforced, and others include special hours-of-operation limits (i.e. no late night operation) for sites adjacent to residential zone districts. As noted above, many newer ordinances require impact attenuation fencing, walls, or vegetation, and an increasing number address the location and orientation of speaker boxes.

Markham's Design Guidelines for Drive-through Facilities recommends a 6 metre wide landscape buffer along each yard adjacent to residential uses and a 1.8 metre high noise fence along the property line, where appropriate. Where adjacent uses are residential, it also requires a sound attenuation study outlining measures to minimize noise impacts.

## 6.2 Site Design

The vehicular traffic associated with drive-throughs requires careful consideration of how cars will access the site, maneuver within it, and park if necessary. Stacking or circulation lanes can generate safety issues by creating a barrier for pedestrians trying to access the site and having to cut across these lanes. These issues can also be exacerbated by buildings being separated from the street frontage by the stacking lane. Appropriate site design approaches are required to ensure that a better balance is given to pedestrian movement over vehicle movement. Double drive-throughs pose additional urban design, safety and traffic challenges, given that they require two stacking lanes. This is particularly relevant in the case of drive-through restaurant facilities that cater to both drive-through and walk-in customers.

### Zoning Approaches to Dealing With Site Design Issues

#### Site Size

Establishing a minimum size for sites containing a drive-through facility and setting provisions around adequate access points can assist with traffic flow and minimize internal movement conflicts. Based on an analysis of lot coverage patterns across existing drive-through facilities in the city, Markham's Design Guidelines for Drive-through Facilities recommends against permitting drive-through restaurant facilities on sites with an area smaller than 0.3 hectares, when located adjacent to residential uses. Even though most zoning by-law provisions in Ontario do not address minimum site size requirements, a number of municipalities have recommended that a minimum site size of 0.3 hectares be considered as part of the zoning by-law<sup>14</sup>. The City of Oakville, on the other hand, made a decision not to recommend a minimum site size in response to resistance from industry stakeholders<sup>15</sup>. Minimum lot size requirements for drive-through uses are not common in newer U.S. ordinances, which generally require mitigation of impacts and allow site designers to innovate to find layouts that achieve that result.

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14 The Town of Caledon and the City of Hamilton both recommend that a minimum site size of 0.3 hectares be included in the Zoning By-law. Sources: City of Hamilton. Prohibition or Regulation of Drive-Through Facilities Within the City of Hamilton. March 16, 2009. <https://www.hamilton.ca/NR/rdonlyres/7CCDF9C4-D8AE-4E82-A736-E6A3F3285E94/0/Apr07PED09082.pdf>; Town of Caledon. Appendix A. Proposed Zoning By-law Provisions for Drive-Through Facilities. December 3, 2008. [http://www.town.caledon.on.ca/en/townhall/resources/Drive\\_Through2.Planning\\_Reports\\_Council\\_Resolutions.pdf](http://www.town.caledon.on.ca/en/townhall/resources/Drive_Through2.Planning_Reports_Council_Resolutions.pdf)

15 Town of Oakville. Drive-Through Facilities Zoning By-law Amendment. Planning and Development Council Meeting Report. April 19, 2010. <http://www.oakville.ca/assets/2011%20planning/ps-DriveThruStudy.pdf>

Most municipalities that have developed design guidelines for drive-through facilities, including Markham, recommend avoiding double drive-throughs and encouraging a maximum of one drive-through facility per site. According to Markham's Design Guidelines, side-by-side drive-through lanes serving a single brand may be acceptable subject to the evaluation of site-specific conditions, and on large sites in excess of one hectare in area, more than one drive-through may be considered to a maximum of three facilities (or two facilities, in the case of restaurants). Although often addressed in design guidelines, restrictions on double drive-throughs are not currently addressed in most zoning by-laws.

While few newer U.S. large city zoning ordinances prohibit double drive-throughs, an increasing number require that drive-through facilities in higher intensity urban locations not locate drive-through or stacking lanes between the primary structure and the street frontage. As with the residential mitigation controls described earlier, this has the foreseeable effect of making some smaller lots unavailable for drive-through facilities.

However, an increasing number of "chain" retailers and restaurants are creating template site layouts that respond to these controls by locating the primary building at the front of the lot and organizing drive-through facilities on the side or rear of the building accessed through specially designated drive-through and stacking lanes integrated with parking areas to the rear.

It is suggested that consideration be given to the incorporation of the 0.3 hectares minimum lot size into the zoning by-law, and to the adoption of a separate definition for and potential restrictions on double drive-throughs, as a means to prevent issues related to traffic flow, and in accordance with the recommendation of Markham's Design Guidelines.

### **Access Points, Vehicular Circulation and Stacking Lanes**

To prevent internal vehicular circulation from creating pedestrian safety issues, drive-throughs should be designed to minimize potential vehicular movements, while stacking lanes should accommodate enough vehicles in order to avoid spillover onto the main roads and traffic congestion. If stacking lanes are too narrow, they can be too restrictive and lead to vehicles cutting across curbs, and to other problems such as lack of space if there is snow buildup on the roads. Consideration should also be given to the fact that many drivers hesitate when they enter a drive-through facility while trying to decide whether to park or use the drive-through. Ideally, visible signage<sup>16</sup> should be provided and stacking lanes should be as linear as possible, and not be intersected by another laneway to avoid conflicts with intersecting traffic.

Municipalities have adopted a number of approaches to zoning in order to deal with these issues. Landscaping is usually encouraged between stacking lanes, buildings and on-site parking. The City of Markham's Design Guidelines recommend locating access points to the drive-through site away from street intersections, providing raised walkways for pedestrians on the side of buildings with a minimum width of 2 metres, and providing an escape lane where appropriate. Stacking lanes should be avoided in the front and exterior side yards, unless site conditions demand it, in which case appropriate landscaping and an architectural screen should be provided along the street.

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16 Signage is an important element that should be addressed through the applicable Sign By-law. Whereas visible signage is required to guide vehicles and pedestrians and facilitate movement, some types of signage – particularly electronic signage - can generate streetscape and visual impact issues. In addition, illumination of the areas of the stacking lanes, pre-order boards, order boards and pick-up windows from both vehicles and site equipment may have an impact on neighbouring uses.

The City of Toronto Zoning By-law 569-2013 specifies that no portion of a stacking lane can be located in a front yard or side yard that abuts a street, unless the lot is in and abuts a lot in the Employment zone. If a building located on a corner lot has both a drive through facility and a vehicle fuel station, the drive through facility stacking aisle may be located in a side yard between the building and the street. The City of Hamilton's Urban Official Plan, which came into effect in 2013, requires that no parking, drive-throughs, or stacking lanes be permitted between buildings and the public sidewalk (Section E.3.8.17). Hamilton's zoning by-law has not yet been updated to respond to this provision.

In London, the Zoning By-law states that the City's preferred location for drive-through facilities is in the rear or interior side yard. Drive-throughs are only permitted in the front or exterior side yards if there are no other design alternatives and in order to address safety considerations. In addition, a minimum 3 metre landscaped buffer is required between the edge of the drive-through lane and the ultimate road allowance to the satisfaction of the Site Plan Control Manager, for any drive-throughs located in the front yard. The following is an excerpt from Section 4.35 of the City of London's Zoning By-law Z-1 outlining these requirements:

**4.35 DRIVE-THROUGH FACILITIES**

The following regulations shall apply to a drive-through facility associated with a permitted use which is adjacent to a residential or facility/institutional use and/or zone:

**2) SETBACK FROM ULTIMATE ROAD ALLOWANCE**

The City's preferred location for drive-through facilities is in the rear and/or interior side yard. Drive-through facilities may only be permitted in the front and/or exterior side yard if there are no other design alternatives and/or to address safety considerations. If the drive-through facility is located in the front yard, a landscape plan and building elevation plan is required to illustrate a minimum 3 metre landscaped buffer between the edge of the drive-through lane and the ultimate road allowance all to the satisfaction of the Manager of Site Plan Control.

A crucial component of most zoning by-laws that address drive-throughs is the set of provisions that establish stacking lane requirements. An increasing number of U.S. large city zoning ordinances address this issue, with different (more strict) requirements for fast food establishments than for other retail (drugstore, bank) establishments, for example. Different zoning standards are applied depending on the intensity of the use.

Markham's Design Guidelines for Drive-Through Facilities suggests a minimum distance of 2 to 3 car lengths between the entrance to the stacking lane and the access to the site from a street. For drive-through restaurants, a minimum of 10 stacking spaces with at least 7 of them available between the entrance to the lane and the order station is recommended. In the case of financial institutions and pharmacies, a minimum of 4 stacking spaces is recommended<sup>17</sup>. These provisions are comparable to the provisions adopted in a number of zoning by-laws. The table below (see next page) summarizes stacking lane provisions found in the zoning by-laws of six municipalities in Ontario, including examples of different stacking lane standards that have been applied to different uses:

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17 Other uses are not addressed in the Design Guidelines.

	<b>Toronto</b>	<b>Oakville</b>	<b>Mississauga</b>	<b>Hamilton</b>	<b>Ottawa</b>	<b>London</b>
<b>By-law</b>	<b>569-2013</b>	<b>2014-014</b>	<b>0225-2007</b>	<b>05-200</b>	<b>2008-250</b>	<b>Z.-1</b>
<b>Stacking lane dimensions &amp; requirements</b>	<p>Minimum width: 3.0 metres Minimum length: 6.5 metres</p> <p>No portion of the stacking aisle may be located in a front or side yard that abuts a street, unless the lot is in and abuts a lot in the Employment Zone.</p>	<p>Minimum width: 2.7 metres Minimum length: 6.0 metres</p> <p>A stacking lane shall be separate from an aisle or driveway.</p>	<p>A stacking lane associated with a convenience restaurant or convenience retail and service kiosk shall be measured from a point 2.0 metres beyond the middle of the drive-through window used for the receipt of goods.</p>	<p>Minimum width: 2.6 metres Minimum length: 6.0 metres</p>	<p>Minimum width: 3.0 metres Minimum length: 5.7 metres</p>	<p>A minimum of 3 spaces or 16 metres, whichever is greater, is required between the road right-of-way and the entrance to the stacking lane.</p>
<b>Minimum number of stacking/ queuing spaces</b>	<p>10 spaces if in combination with a use selling food or beverage; 4 spaces otherwise.</p>	<p>Financial Institution: 4 spaces Motor vehicle washing facility: 8 spaces plus 2 at the exit Restaurant: 10 spaces (7 located before order station) Retail store: 4 spaces School, private and public: 10 spaces Service commercial establishment: 4 spaces</p>	<p>Convenience restaurants: 10 spaces Convenience retail and service kiosks: 5 spaces</p>	<p>Minimum number of stacking spaces from the service window: 12 spaces</p>	<p>Minimum number of spaces before/at a service window (with no order board): 4 spaces</p> <p>Minimum number of spaces (with order board): 11 spaces with a minimum of 7 spaces before/ at a order board</p>	<p>Donut/Coffee Shot: 15 spaces Fast-food/ Eat-in Restaurant: 12 spaces Service station with convenience sales: 9 spaces Financial Institution/ Automated Teller: 4 spaces</p> <p>Obs: Subject to queuing study.</p>

## 6.3 Other Issues

### Principal Use versus Accessory Use

Most municipalities in Ontario including Oakville, Mississauga, Waterloo and Caledon designate drive-throughs as an accessory use, to be approved as part of the main use. Among the cases studies reviewed here, the City of Toronto is the only municipality that defines drive-through facilities as a separate and distinct land use, and establishes provisions to regulate the locations where such uses are permitted. A growing number of U.S. codes follow this approach, which also avoids the need to distinguish between primary uses with and without drive-through facilities (for example “restaurant without drive-through” and “restaurant with drive-through”). Given that Markham’s New Official Plan designated drive-throughs as accessory to a main use, it is recommended that new zoning provisions are consistent with this designation.

A staff report prepared by the City of Hamilton emphasizes that when considering drive-throughs as a principal use, municipalities should be aware that it is implied that the use must be permitted somewhere within the city, and cannot be prohibited outright across the entire City.

### Prohibition versus Regulation of Drive-through Facilities

A number of municipalities in Ontario have considered implementing a complete ban on drive-through facilities<sup>18</sup>. Markham’s Background Report on drive-throughs cites a document prepared by Markham’s Development Services Committee in 2008 (Report SD-03-016698), which implies that a prohibition on all drive-throughs is not recommended, given that a ban would prompt strenuous resistance from the drive-through industry through Ontario Municipal Board appeals. Given that efforts to limit the location and proliferation of drive-through facilities through zoning controls have been more widely accepted, the report recommends the use of zoning regulations in conjunction with design controls, rather than a complete ban on drive-throughs.

This is also the approach followed by most newer U.S. zoning ordinances. However, a growing number of cities have made accessory drive-through facilities unavailable in their downtown areas and other very walkable or historic areas. Early versions of this prohibition often had the result of prohibiting drive-throughs on the edges of the defined areas, even though establishments across the boundary streets and outside the defined areas were free to have drive-throughs. More recently, some cities that intend to prohibit drive-throughs in special character areas are considering permitting them on the outer boundary streets of those areas on the grounds that their availability along those streets does not significantly compromise the internal walkability of those downtown/walkable/historic neighborhoods.

The Background Report also suggests that drive-throughs will likely remain popular among drivers, and will continue evolving, with potential new varieties of drive-through facilities emerging in the future. Therefore, regulations should account for these changes and consider how they will deal with different uses and new configurations of drive-through facilities in the future.

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<sup>18</sup> Examples include the City of Hamilton and the City of London, Ontario. Sources: City of Hamilton. Planning and Economic Development Department, Strategic Services and Special Projects Division. Prohibition or Regulation of Drive-Through Facilities within the City of Hamilton (PED09082). <https://www.hamilton.ca/NR/rdonlyres/7CCDF9C4-D8AE-4E82-A736-E6A3F3285E94/0/Apr07PED09082.pdf>. March 16, 2009.

## 7. CONCLUSIONS

Zoning provisions can provide clear direction in terms of location criteria to determine where drive-throughs should be avoided or directed to; determining appropriate separation distances from sensitive uses; setting a minimum number of stacking spaces in accordance with various types of drive-throughs; and implementing additional design controls such as noise attenuation measures, landscaping and other buffer and safety strategies. Below is a summary of key points to consider in the formulation of new drive-through zoning provisions in Markham:

- Align new zoning provisions with the direction of the Official Plan
- Incorporate location criteria provisions to restrict drive-throughs in specific areas
- Respond to the Design Guidelines for Drive-Through Facilities
- Set a minimum separation distance requirement from residential uses of at least 30 metres from all parts of the drive-through facility, including the stacking lane and order box; or require a minimum 6 metre wide landscape buffer along each yard where it abuts a residential use
- Require a 1.8 metre high noise fence along the drive-through property line to serve as a visual and noise barrier
- Consider establishing a minimum lot size requirement of 0.3 hectares, especially for lots located near residential uses
- Include a definition for and place restrictions on double drive-throughs
- Prohibit stacking lanes in the front or side yards except under exceptional conditions
- Implement stacking lane provisions that meet the recommendations of the Design Guidelines, at a minimum



## Task 8: Drive-Through Review

- Consider all potential drive-through uses when formulating stacking lane provisions, including more intensive drive-through uses
- Designate drive-throughs as an accessory use in the zoning by-law

The following additional requirements should be considered as part of site plan review:

- Require a sound attenuation study for uses that abut residential lots
- Require raised walkways along buildings with a minimum width of 2 meters
- Require visible signage to guide vehicles and pedestrians

The City of Markham has played a significant role in establishing best practices around dealing with drive-throughs in Ontario, as demonstrated through Markham's Design Guidelines for Drive Through Facilities and related reports. These documents have served as a benchmark to inform other municipalities in the development of their own design guidelines and zoning provisions. Even though Markham's existing zoning framework currently provides limited direction with respect to drive-through facilities, the City is currently in a favorable position to introduce a more effective set of drive-through zoning provisions that will respond to the direction of the Official Plan and the existing Design Guidelines. In combination, these policies and guidelines will serve as an effective instrument to adequately regulate drive-through facilities, and will assist the City of Markham in better managing the development of drive-throughs in the future.

**APPENDIX:  
CASE STUDIES**

Draft

## Case Study 1: City of Mississauga

### PROFILE OF THE CITY:

Mississauga is Canada's sixth largest municipality and the third largest in Ontario. The city forms part of the Regional Municipality of Peel, located in the western part of the Greater Toronto Area.

Population: 713,443

Number of private dwellings: 234,582

Population density per km<sup>2</sup>: 2,439.9

Land area: 292.4 km<sup>2</sup>

Median household income: 66,464

Immigrant population: 52.9%

### 1. Overview:

The Mississauga Planning and Building Department (PBD) produced a report in 2001 recommending amendments to the zoning by-law for drive-through facilities. The report was presented to and adopted in principle by City Council, however the amendments were questioned by industry representatives. After public meetings and pressure from these lobbying organizations, the PBD revised the proposed zoning by-law amendments and turned them into design guidelines.

### 2. Background:

In January 2002, the City of Mississauga's Planning and Development Committee (PDC) reviewed the PBD's *Drive-through Restaurants/Convenience Kiosk* report. The report proposed amendments to Mississauga's zoning by-law for drive-through facilities addressing "issues of design and location of drive-through lanes; their impact on traffic circulation, both within the development site and public boulevard; and, the adequacy of existing zoning standards for required spaces in a stacking lane" (*Mississauga Corporate Report, CD.07.DRI, p. 1*).

After presenting the recommendations to City Council, the City circulated the report to the Ontario Restaurant Hotel and Motel Association (ORHMA), the Mississauga Board of Trade, and the Business Improvement Associations for their feedback, and engaged in public consultations. In January 2005, due to concerns by industry representatives, the City formed a committee comprised of staff from the PBD and representatives from City Council to conduct negotiations with Canadian Petroleum Products Industry<sup>19</sup> (CPPI), ORHMA, and Loblaw Properties. These industry associations believed that the City of Mississauga was being too restrictive and that a comprehensive zoning plan for drive-through facilities should not be applied city-wide due to the unique nature of each property. They requested further flexibility from the city so that site context and individual circumstances could be more easily addressed. As a result of these negotiations, the proposed by-law amendments were never implemented<sup>20</sup> and were instead used to inform the development of design guidelines (*Drive-through Stacking Lanes, Design Reference Notes*).

### 3. Drive-through Restaurants/Convenience Kiosks report:

19 Drive-through Stacking Lanes, Design Reference Note (CD.07.DRI) from December 11, 2007 refers to the Canadian Petroleum Products Industry. However that organization seemingly does not exist. It is likely that the document is referring to the lobbying organization, Canadian Petroleum Products Institute ([www.cppei.ca](http://www.cppei.ca)).

20 There is one exception: E2-86 on Map #27 of Mississauga's Zoning By-laws 0225-2007 which overrides the stacking lane provisions of Subsection 3.1.5 (discussed in item 5 of this Case Study: Current City of Mississauga Zoning By-law).

The PBD's *Drive-through Restaurants/Convenience Kiosks* report of 2001 outlines the City's concerns, design recommendations, and proposed by-law amendments. Key points are summarized below:

**A) Design concerns:**

- **Circuitous and intersecting traffic conditions:** When a stacking lane is not in a linear pattern or is intersected by another laneway, vehicles may be stopped due to congestion and conflicts with intersecting traffic patterns. This has the potential to cause traffic backups extending onto public laneways. In addition, vehicles within these stacking lanes do not always have a clear path to proceed to the window and, if advancing prematurely, may block incoming traffic, or due to confusion, may jump the queue.
- **Stacking lanes:** Additional space on site is required to accommodate the traffic. On smaller sites, hesitation by drivers can cause traffic congestion as they attempt to decide whether to park or use the drive-through. In peak hours, excessive stacking of vehicles may cause spillover onto the public right-of-way causing backups on the public street. In addition, too narrow a stacking lane will restrict access (especially in the winter with snow buildup) and too tight a radius will result in larger vehicles cutting across curbs, impacting landscaping and/or pedestrian walkways.
- **Pedestrians:** Pedestrian safety and convenience can be compromised. This is especially prevalent when there are two restaurant tenants using the same site. Both sides of the building have stacking lanes abutting the building wall, which can isolate the building on the site for those patrons not using the drive-through, resulting in unsafe and inconvenient pedestrian access from the parking area or the public street/sidewalk.

**B) Design recommendations:**

- No stacking of vehicles shall occur on the public right-of-way. Make the access point to the restaurant and/or the stacking lane as deep into the site as possible. This will result in any congestion to be internalized on the site and not on the public thoroughfare. It also allows for more distance between the parking and pedestrian areas, and the stacking lanes, removing some of the possibility for congestion.
- Stacking lanes should be linear and straight, minimizing curves and turning movements. They should also be defined by raised curbs and landscaped areas.
- Access driveways on a corner site should be located as far as possible from the abutting intersection.
- Pedestrian/barrier-free access to the building entrances should be provided in a safe and convenient manner. This is done by ensuring that direct pedestrian walkways are provided to main parking areas and the public sidewalk, and do not pass through a stacking lane.

**C) Proposed by-law amendments:**

The following amendments were suggested, but ultimately never implemented as zoning by-laws:

- Minimum spatial separation of the access point to a stacking lane from the streetline(s) of the site be 16 metres (53 feet). The equivalent of three car lengths.
- Stacking lanes have a minimum width of 4.0 metres (13.1 feet) and maintain a centreline radius of 6.5 metres (21.3 feet).
- Requirement of vehicle stacking capacity for drive-through uses of 12 spaces.
- A stacking lane must be a continuous laneway having no obstruction by intersecting traffic or abutting parking stalls/loading spaces.

## Task 8: Drive-Through Review

- Stacking lane should be linear and straight in design, minimizing curves and turning movements. In addition, the stacking lane should be defined by concrete curbs and landscaping areas to ensure it is separated from other traffic.
- Design guidelines related to safe and convenient pedestrian and barrier-free access should be adopted regarding access to and from parking areas and the public sidewalk to the building entries.

### 4. Drive-through Stacking Lanes, Design Reference Notes Design Guidelines

After negotiating with industry representatives, the PBD released the *Drive-through Stacking Lanes, Design Reference Notes* suggesting design recommendations for drive-through facilities, including:

- Minimum stacking lane width of 3.0 metres (9.8 feet).
- Have no obstructions by intersecting traffic, abutting parking, or loading spaces in the way of the stacking lanes.
- Stacking lanes are not to be located within a front or exterior side yard.
- Minimize curve and turning movements.
- Stacking lanes should be defined by raised curbs and a 1.2 metre (3.9 feet) wide landscape island where adjacent to parking and a 3.0 metre (9.8 feet) wide landscape island where adjacent to drive-ways.
- Not to be located on a lot situated at the intersection of two highways, or parts thereof, having a designated right-of-way width of 26.0 metres (85.3 feet) or greater.
- Stacking lanes should be located as deeply into the site as possible.
- Where permitted, all access points at intersections should be right-in, right-out only. Additional access points may be considered if they are located at a minimum of 100.0 metres (328 feet) from the intersection of a designated right-of-way or site triangle.
- Access driveways on a corner should be located as far away as possible from the abutting intersection.
- Pedestrian/barrier-free access to building entrances should be provided in a safe and convenient manner by ensuring that direct pedestrian links to main parking areas and public sidewalks, do not pass through a stacking lane.
- The last required stacked vehicle space should be a minimum of 16.0 metres (52.5 feet) from the midpoint of any driveway or access at the property line measured along the driveway and/or aisle centre line using the shortest vehicular route.
- Where stacking lanes require noise mitigation, noise barriers adjacent to a residential zone should be a maximum height of 2.4 metres (7.9 feet) to minimize the visual impact. A combination berm/noise barrier is an acceptable solution in circumstances where a 2.4 metres (7.9 feet) noise barrier does not provide adequate noise mitigation. The noise barrier should be located on the property line to prevent the creation of left over space.
- Anti-littering signage should be appropriately incorporated into the site and be directed to face vehicles in stacking lanes and parking areas. Stacking lane setbacks from residential zones
- Stacking lane setbacks from residential zone:

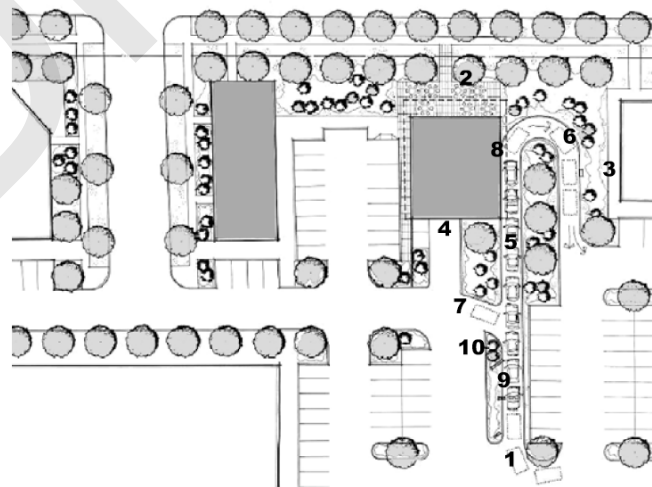
The design guidelines provide examples of ideal layouts of drive-through facilities with stacking lanes:

Use Associated With Stacking Lane		Minimum setback to any portion of stacking lane, from a residential zone		Notes
		metres	feet	
Convenience Restaurant Convenience Retail and Service Kiosks		20.0	65.6	Setback also applies to order boards or speakers used for ordering.
Motor Vehicle Wash Facility / Motor Vehicle Wash Facility Restricted	with the entrance/exit located perpendicular to the property line	50.0	164.0	In all instances where the entrance/exit is not located perpendicular to a residential property line, it will be considered to be "parallel".
	with the entrance/exit located parallel to the property line	20.0	65.6	
	with a staged exit	4.5	14.7	
Banking Machine accessory to a Financial Institution		4.5	14.7	

**\* N.B. Refer to Subsection 3.1.5 of the City of Mississauga Zoning By-law for further information**

fig.1 Convenience restaurant drive-through within a commercial or campus-style development

1. drive-through entrance
2. exterior patio fronting onto street
3. anti-littering signage
4. loading / garbage
5. minimum 3.0 m wide stacking lane
6. minimum 3.0 m landscape island
7. escape lane
8. pick-up window
9. intercom
10. order boards



## 5. Current City of Mississauga By-Law:

The City of Mississauga's Zoning By-Law (0225-2007) has the following requirements for drive-throughs:

Drive-throughs are only permitted in the following zones:

- In Commercial Zones:
  - A drive-through window is a permitted accessory to a convenience restaurant (only in C2: Neighbourhood Commercial and C3: General Commercial zones), a gas bar with a convenience retail and service kiosk (only in C5: Motor Vehicle Commercial zone), and a motor vehicle service station with a convenience retail and service kiosk (only in C5: Motor Vehicle Commercial zone). (6.1.3.1)

Below is a snapshots of the applicable zoning by-law section:

<b>6.1.3</b>	<b>Drive-Through Window</b>
6.1.3.1	A drive-through window is permitted accessory to a <b>convenience restaurant</b> , a <b>gas bar</b> with a <b>convenience retail and service kiosk</b> and a <b>motor vehicle service station</b> with a <b>convenience retail and service kiosk</b> .
6.1.3.2	A drive-through window shall require a stacking lane in compliance with Subsection 3.1.5 of this By-law.

- In Employment Zones<sup>21</sup>:
  - A drive-through window is a permitted accessory to a convenience restaurant (only in E2: Employment and E3: Industrial zones, and must be 60 metres away from a Residential zone), a gas bar with a convenience retail and service kiosk (only in E2: Employment and E3: Industrial zones, and must be 60 metres away from a Residential zone), and a motor vehicle service station with a convenience retail and service kiosk (only in E2: Employment and E3: Industrial zones). (8.1.8.1)

Below are snapshots of the applicable zoning by-law sections:

<b>8.1.8</b>	<b>Drive-Through Window</b>
8.1.8.1	A drive-through window is permitted accessory to a <b>convenience restaurant</b> , a <b>gas bar</b> with a <b>convenience retail and service kiosk</b> and a <b>motor vehicle service station</b> with a <b>convenience retail and service kiosk</b> .
8.1.8.2	A drive-through window shall require a <b>stacking lane</b> in compliance with Subsection 3.1.5 of this By-law.

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21 Exception E2-86 specific to Map #27 (8.2.3.86): Lands zoned E2-86 shall only be used for the following: 1) restaurant, 2) convenience restaurant, 3) take-out restaurant (8.2.3.86.1); The regulations contained in Subsection 3.1.5 shall not apply (8.2.3.86.2); Minimum number of stacking parking spaces: 12 (8.2.3.86.3); Minimum distance between the last required stacking lane parking space and the closest entry driveway: 16.0m (8.2.3.86.4); Minimum width of the stacking lane: 4.0m (8.2.3.86.5); Minimum centreline radius of the stacking lane: 6.5m on any curve (8.2.3.86.6).

8.2.3.86	Exception: E2-86	Map # 27	By-law: 0229-2012
In an E2-86 zone the applicable regulations shall be as specified for an E2 zone except that the following uses/regulations shall apply:			
<b>Permitted Uses</b>			
8.2.3.86.1	Lands zoned E2-86 shall only be used for the following:		
	(1)	<b>Restaurant</b>	
	(2)	<b>Convenience Restaurant</b>	
	(3)	<b>Take-out Restaurant</b>	
<b>Regulations</b>			
8.2.3.86.2	The regulations contained in Subsection 3.1.5 of this By-law shall not apply		
8.2.3.86.3	Minimum number of stacking lane <b>parking spaces</b>		12
8.2.3.86.4	Minimum distance between the last required stacking lane <b>parking space</b> and the closest entry <b>driveway</b>		16.0 m
8.2.3.86.5	Minimum width of the <b>stacking lane</b>		4.0 m
8.2.3.86.6	Minimum centreline radius of the <b>stacking lane</b>		6.5 m on any curve

Additionally, tr

3.1.8.2):

- Stacking Regulations (3.1.5):
  - A stacking lane associated with a convenience restaurant, convenience retail and service kiosk (...) shall be provided with the minimum number of stacking lane tandem parking spaces required:
    - » Convenience restaurant: 10
    - » Convenience retail and service kiosk: 5 (3.1.5.1.1)
  - A stacking lane associated with a convenience restaurant or convenience retail and service kiosk shall be measured from a point located 2.0m beyond the middle of the drive-through window used for the receipt of goods (3.1.5.1.2)

Below is a snapshots of the applicable zoning by-law section:

<b>3.1.5</b>	<b>Stacking Lane Regulations</b>																					
3.1.5.1	The following regulations shall apply to uses that have a <b>stacking lane</b> component:																					
3.1.5.1.1	A <b>stacking lane</b> associated with a <b>convenience restaurant, convenience retail and service kiosk, financial institution, motor vehicle wash facility - commercial motor vehicle</b> or a <b>motor vehicle wash facility - restricted</b> shall be provided in accordance with Table 3.1.5.1.1 - Required Number of Stacking Lane Parking Spaces. (0379-2009)																					
<b>Table 3.1.5.1.1 - Required Number of Stacking Lane Parking Spaces</b>																						
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## Case Study 2: City of Toronto

### PROFILE OF THE CITY:

Toronto is the provincial capital of Ontario. It is Canada's largest city, and the fourth largest in North America. The city is a global centre for business, finance, arts and culture.

Population: 2,615,060

Number of private dwellings: 1,047,877

Population density per km<sup>2</sup>: 4,149.5

Land area: 630 km<sup>2</sup>

Median household income: \$58,381

Immigrant population: 51%

### 1. Overview:

In 2002, Toronto City Council passed city-wide zoning requirements for drive-through facilities, banning them from any area with residential dwellings or within less than 30 metres from residences in approved Employment-Industrial zones. Industry representatives and the Ontario Restaurant, Hotel & Motel Association (ORHMA) contested the revised by-law and lost in front of the Ontario Municipal Board (OMB) in 2004 (OMB Decision #PL021072-0154, issued January 23, 2004).<sup>22</sup> After completing a seven year comprehensive analysis, the City amended Toronto's by-laws in 2010 (and updated them again in 2013), maintaining the 2002 policy directions of City Council for drive-through facilities. The *Urban Design Guidelines for Sites with Drive-through Facilities* report was released in 2005 to work in conjunction with the City's by-laws.

### 2. Background:

In 2001, a McDonald's restaurant on St. Clair Avenue West proposed adding a drive-through facility to its pre-existing location that was mainly bounded by residential dwellings. However, a local neighbourhood group, Humewood Neighbourhood Ratepayers Inc., along with City Councillor Joe Mihevic, challenged the proposal and won. As a result, Toronto City Council implemented temporary by-laws preventing drive-through facilities from being established on St. Clair Avenue West between Bathurst Street to Oakwood Avenue. This case acted as the catalyst for further by-law amendments for drive-through facilities in Toronto.

In 2002, the City of Toronto's Commissioner of Urban Development Services (UDS) presented to City Council the *By-law Amendment to Regulate Drive-through Facilities in the City of Toronto*, a report to amend and unify the former un-amalgamated cities' zoning by-laws. UDS recommended updated by-law standards and guidelines for the establishment of drive-through facilities, including permitted locations and uses. City Council adopted the recommendations and passed the by-law that banned drive-throughs in any zone containing residential dwellings, and permitted them in commercial and industrial zones only if the drive-through facilities were a minimum of 30 metres away from residential uses. Industry representatives and ORHMA contested the by-law change stating that the distance from

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22 Ontario Municipal Board. Case No. PL080959, issued January 23, 2004. Retrieved from: [https://www.omb.gov.on.ca/e-decisions\\_old/pl021072\\_%230154.pdf](https://www.omb.gov.on.ca/e-decisions_old/pl021072_%230154.pdf)

residential uses was too large. They took their challenge to the OMB, but lost in a 2004 ruling for the City of Toronto, which upheld the City's by-law regulations.

The OMB decision set a precedent as to how a number of municipalities in Ontario have dealt with separation distance requirements between drive-through facilities and residential uses. The ruling concluded that a 30 metre separation distance is appropriate given that noise is a legitimate concern for residential neighbourhoods in close proximity to a drive-through, and in some cases an even greater distance may be required. It also concluded that restricting drive-throughs in areas that are more pedestrian-oriented and more heavily populated is consistent with the policies set out in the City's new Official Plan. As a result, relying upon site plan control alone to determine matters such as separation distances and site design does not represent sound planning. In order to promote consistency in the approvals process, a preferred approach is placing a restriction on drive-throughs throughout the city, and enabling exceptions to be made on a case by case basis through site-specific development applications.

Beginning in 2003, the City of Toronto began a seven year comprehensive analysis and redevelopment of the city's zoning by-laws. After public consultations and meetings with fast food industry representatives and the ORHMA, the City increased the size of eating establishments from 200 to 300 square metres (where they are permitted uses in Employment-Industrial zones) in the August 2010 draft version of *Zoning By-law 1156-2010*. Despite repeating their complaints from 2002 that the distance of 30 metres between a drive-through facility and a residential use is too large, no changes were made to the drive-through regulations by the City. Consequently, ORHMA challenged *Zoning By-law 569-2010* as being "punitively restrictive for restaurants" (Louis Tinker, ORMHA). In addition, according to Michael Polowin, the lawyer for ORHMA, in the development of the new zoning by-law the City was not complicit with the *Planning Act* in its evaluation and public consultations, and, as a result, the ORHMA and several members appealed it to the OMB (Polowin, e-mail to Chair and Members of the Planning and Growth Management Committee, April 29, 2011).

In May 2011, City Council voted to repeal *Zoning By-law 1156-2010* and all subsequent amendments, with a new *Comprehensive Zoning By-law 569-2013* being enacted by City Council in May 2013. No revisions were made to zoning for drive-through facilities, and, according to the City of Toronto's City Planning Department, the industry has appealed the new *Zoning By-law* to the OMB, but, as of yet, it has not been addressed.

Concurrent with the development of *Zoning By-law 1156-2010* the City of Toronto developed the *Urban Design Guidelines for Sites with Drive-through Facilities* in 2005. These guidelines are used in conjunction with the zoning by-laws for the "development and review of Site Plan Applications for drive-through facilities on lands where Zoning By-laws identify drive-through facilities as a permitted land use" (*Urban Design Guidelines for Sites with Drive-through Facilities*, p. 3).

### **3. By-law Amendment to Regulate Drive-Through Facilities in the City of Toronto report:**

The UDS *By-law Amendment to Regulate Drive-Through Facilities in the City of Toronto* report of 2002 outlines the City's concerns with drive-through facilities and overall by-law recommendations. Key points are summarized below:

#### **A) Concerns:**

- **Traffic:** Function of drive-through facilities is to serve large numbers of customers over short periods of time, encouraging more traffic than the same use without a drive-through facility.

## Task 8: Drive-Through Review

These facilities can have significant impacts on neighbouring uses, such as site access (curb cuts, driveways and turnouts), and stacking lanes and the relationship between internal site traffic and pedestrian traffic increasing the potential for pedestrian and vehicular conflicts. Inadequate parking and poorly designed stacking lanes can lead to vehicle queuing on the street and blocking the sidewalk, creating a potentially dangerous situation for motorists, pedestrians, and cyclists, while also delaying buses and streetcars.

- **Impact on the streetscape:** Commercial buildings within the City of Toronto were generally built in a continuous manner, close to the front of the property, with the retail uses supporting a safe, interesting pedestrian realm. Drive-through facilities use curb cuts and driveways along sidewalk edges, producing single-use environments and disrupting the desirable building pattern. Combined with higher curb cuts, traffic volumes and increased frequency of traffic, drive-through facilities produce unpleasant pedestrian environments, loss of street tree planting sites and disrupt pedestrian traffic along the sidewalks.
- **Noise:** Additional noise generated by the engines of vehicles running, orders being placed and loud music from car stereos, all of which become a concern late at night, especially with facilities that operate 24 hours a day.
- **Environmental/air quality:** Pollutant emissions from vehicles are highest when a vehicle is standing/idling, contributing to smog and poor air quality.<sup>23</sup>
- **Odours:** In addition to food preparation smells, drive-throughs impose offensive odours generated from idling vehicles exhausts on the surrounding area.
- **Hours of operation:** Extension of operating hours can extend to 24-hours a day and this can create a major concern where abutting uses are residential.
- **Landscaping:** Drive-through facilities require considerable amounts of paved surfaces for parking and stacking of vehicles, increasing surface runoff, heat generation from the paved surfaces, and making landscaped buffers between adjacent uses difficult to achieve.
- **Illumination and signage:** Signage and lighting generate streetscape and visual impact issues. Illumination of the areas of the stacking lanes, pre-order boards, order boards and pick-up windows from both vehicles and site equipment may be incompatible with neighbouring uses.
- **Littering and waste:** There is increased concern of the scattering of waste beyond the drive-through facility.
- **Visual impact:** Requirements for signage, standard building prototypes and arrangements of the drive-through component uses may not be consistent with the visual character of the area's established and emerging residential communities and traditional retail strips.
- **Land utilization:** Drive-through facilities require considerable amounts of land to accommodate the queuing of vehicles, which is contrary to the City's objective for intensification.

### **B) Recommendations:**

Drive-through facilities:

- Must be defined as a separate land use class for zoning purposes.

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23 TDL Group Corp. commissioned a report by RDWI Air Inc. to test the air quality and emissions levels of vehicles using Tim Hortons' facilities. Outlining their methodology (quantitative analysis of 2006 data and 2016 modelling) and conclusions in Briefing Note: Summary of the Air Quality Assessment of Tim Hortons Restaurants: Ontario, Canada (May 2008), RDWI predicts future emissions levels of CO and NOx on Tim Hortons properties with drive-through facilities as being "below the provincial standards in 2006 and even further below in 2016" (p. 4). Their peer-reviewed study concludes that there is "no air quality benefit to the public from eliminating drive-throughs" (p. 3).

- Will continue to be permitted in Commercial and Employment zones. However, within these zones all parts of the drive-through operation must be set back 30 metres (100 feet) from any abutting residential zones (including any part of the building or stacking lane).
- Are no longer permitted in zones with residential uses, including mixed-use areas and designated centres. Drive-through facilities are not compatible with residential uses when considering the negative impact related to such matters as traffic, noise, fumes and air quality, nuisance relative to residential uses, and serious risks to pedestrian safety.

#### 4. Urban Design Guidelines for Sites with Drive-through Facilities in the City of Toronto (2005):

The UDS developed the *Urban Design Guidelines for Sites with Drive-through Facilities in the City of Toronto* to be used in conjunction with the current zoning by-laws for the development and review of Site Plan Applications for drive-through facilities. These design guidelines include:

- **6.1.1 Building location:** should be close to or at the street to define and support the street edge.
- **6.1.2 Building organization:** main entrances doors should be accessible directly from the public sidewalk (if a corner lot, entrance should be on the more major street); uses that support the street should be aligned with the public sidewalk (such as restaurant seating); maximize views along the street face with transparent windows, doors, and/or other building materials.
- **6.1.3 Stacking lanes and driveways:** do not locate between buildings and street; locate out of view of the public street and/or sidewalk at the rear and/or flank of the building; provide sufficient signage (indicate traffic direction, stop signs, and no entrance areas) and integrate layout into the larger streetscape concept; provide a minimum of 10 stacking spaces which are 3.5 metres wide and 6.5 metres in length; minimize paved areas and maximize water permeable surfaces and soft landscaped areas; consider multiple windows servicing single stacking lanes in order to reduce idling; multiple stacking lanes for a single user are discouraged.
- **6.1.4 Vehicular site access and parking:** minimize the number and width of curb cuts providing only one curb cut for a mid-block site and a maximum of two curb cuts if necessary for a corner site; coordinate vehicular site access with existing curb cuts when applicable; provide vehicular access from the side or less major street where possible; locate parking at the rear and/or flank of the building out of view from the public street and/or sidewalk; do not locate parking or vehicular site exits or entrances between the building and the street; provide parking adjacent to the secondary doors so that it is not necessary for pedestrians arriving by car to cross driveways or stacking lanes to enter the building; minimize paved areas and maximize water permeable surfaces and soft landscaped areas.
- **6.1.5 Utilities and services:** locate utilities underground or at the rear and/or flank of the building whenever possible; house exterior garbage facilities in enclosed structures.
- **6.2.1 Massing and building articulation:** using high quality materials, maximize height of the building or facades and length of building facing the street to achieve appropriate scale to define the street; avoid stand-alone buildings and instead incorporate facilities into larger, multi-use buildings; articulate building entrances and incorporate weather protection devices into building design and stacking lanes; incorporate signage into site design and massing; screen rooftop mechanical devices from view from the street.
- **6.3.1 Pedestrian safety, amenity and circulation:** design of the site should take into consideration the safety of site users, employees, and passers-by to maintain appropriate sight

lines, surveillance and lighting; provide pedestrian circulation routes that are at minimum of 1.5 metres wide and barrier-free access; provide rain, wind and shade weather protection at the main building entrance and in proximity to public transit stops, for exterior seating, along the street, and for specific pedestrian amenities associated with the building; provide pedestrian amenities appropriate for the site (i.e. Phone booths, bike racks and exterior furniture); provide small, low, task lighting and direct lighting toward the site to avoid spill-over and excessive lighting; locate lighting, trees, soft landscape, exterior furniture along pedestrian walkways.

- **6.4.1 General landscaping requirements:** provide well designed, high quality landscaping, maximizing soft landscaping which is attractive, functional and fits well with the site and streetscape; provide street trees, boulevard paving, sod and sidewalks coordinating on-site landscaping with streetscape improvements on public boulevard; provide a landscaped area between the building and street when a setback is required; define the front door of building and vehicular entrance to the site with landscaping; provide continuous soft landscaped areas no less than 2.4 metres wide to define stacking lanes; maintain sight lines from stacked cars to pedestrian crossings with low soft landscaping; provide a variety of plant material including trees, designing the landscape to respond to adjacent or visible natural landscapes; provide a fully functioning irrigation system.
- **6.4.2 Edge treatment and screening:** screen stacking lanes, driveways, parking, utilities and services from view along the street and/or sidewalk; provide screening (900mm to 1100mm in height) including low decorative fences or walls with continuous screening hedges (800mm to 1000mm in height); locate screening at least 1000mm from the edge of the public sidewalk; provide deciduous trees with high branches where it is necessary to maintain sight lines; ensure screening design, height and materials relate to the building expression, character of the area, the surrounding streetscape and planned context; provide no less than a 3.0 metre wide landscaped area along the perimeter of the back and sides to accommodate tree planting, fencing, snow storage, etc.; provide tree planting in perimeter landscaped areas at a rate of one tree per 7.5 metres; plant trees 600mm (minimum) from any curb face or parking lot edge to protect from car overhang and damage.
- **6.4.3 Site grading:** avoid making changes in grade greater than 4% slope between the public sidewalk and adjacent uses to maintain direct pedestrian access; if a change in grade cannot be avoided the grade change should be located away from the public sidewalk and pedestrian access, minimizing the grade change as best as possible and enhancing with intensive soft landscaping; use durable and attractive materials such as pre-cast concrete or better for retaining walls (pressure treated wood is not acceptable).
- **6.4.4 Plant material:** install plant material that is healthy and vigorous, free from insects, plant diseases and injuries meeting or exceeding the minimum sizes (deciduous street tree: 70mm caliper, deciduous trees: 60mm caliper, small deciduous trees: 50mm caliper, coniferous trees: 1500mm ht., deciduous shrubs: 600mm ht., coniferous shrubs: 600mm ht. or spread, perennials: 2 years container grown); consider hardiness of plant material appropriate for local sun and shade conditions; avoid invasive plant species; limit exotic species.
- **6.4.5 Landscape maintenance:** landscaping must be continuously maintained including necessary irrigation, weeding, pruning, pest control and replacement of dead or diseased plant materials (replacement shall be of the same type, scale and visual character, and occur no later than the next planting season and not exceed one year).

## 5. City of Toronto Zoning By-law 569-2013:

The City of Toronto's 2013 Zoning By-Laws define a drive-through facility as: "premises used to provide or dispense products or services, through an attendant, or a window or an automated machine, to persons remaining in vehicles that are in a designated stacking aisle" (800.50(200)). More specifically, the requirements for a drive-through facility outline it as "a use that must be in combination with another use, neither of which may be construed as being ancillary to the other, and all regulations pertaining to each use apply" (150.80.20.1(2)).

Drive-through facilities are not permitted in zones designated Residential, Residential Apartment, Commercial Residential Employment, or Commercial Residential (150.80.20.1(1)). Where permitted, a drive-through facility including stacking aisles, must be at least 30.0 metres from any zone designated Residential, Residential Apartment, Commercial Residential Employment, or Commercial Residential (150.08.40.1(1)).

Vehicle stacking lanes must be at least 3.0 metres wide and 6.5 metres long (150.80.20.1(3)), providing at least 10 vehicle stacking spaces (150.80.20.1(4)). No portion of the stacking aisle may be located in a front or side yard that abuts a street, unless the lot is in and abuts a lot in the Employment zone (150.80.20.1(5))<sup>24</sup>.

The provisions of Zoning By-law 569-2013 are copied below:

### Chapter 150 Specific Use Regulations

#### **150.80 Drive Through Facility**

##### **150.80.1 General**

(1) Application of this Section

The regulations in Section 150.80 apply to drive through facilities.

##### **150.80.20 Use Requirements**

##### **150.80.20.1 General**

(1) Drive Through Facility - Use Restriction with Residential

No person may use any land or erect or use any building or structure for the purpose of a drive through facility in the Residential Zone category, the Residential Apartment Zone category, the Commercial Residential Employment Zone category, or the Commercial Residential Zone category other than a CR zone where the zone label has an 'r' value of 0.0.

(2) Drive Through Facility - A Use in Combination with Other Uses

A drive through facility is a use that must be in combination with another use, neither of which may be construed as being ancillary to the other, and all regulations pertaining to each use apply.

(3) Vehicle Stacking Space Dimensions

A vehicle stacking space must be at least 3.0 metres wide by 6.5 metres long.

(4) Drive Through Facility - Stacking Aisle Provisions

A drive through facility:

<sup>24</sup> Despite 150.80.20.1(5), if a building located on a corner lot has both a drive-through facility and a vehicle fuel station, the drive-through facility stacking aisle may be located in a side yard between the building and the street (150.80.20.1(6)).

## Task 8: Drive-Through Review

(A) in combination with a use selling food or beverage, must provide at least ten vehicle stacking spaces in a stacking aisle; and

(B) not in combination with a use selling food or beverage, must provide at least four vehicle stacking spaces in a stacking aisle.

### (5) Drive Through Facility - Location Restriction for Stacking Aisle

No portion of a drive through facility stacking aisle may be located in a front yard or side yard that abuts a street, unless the lot is in and abuts a lot in the E zone.

### (6) Stacking Aisle Location

Despite 150.80.20(5), if a building located on a corner lot has both a drive through facility and a vehicle fuel station, the drive through facility stacking aisle may be located in a side yard between the building and the street.

Draft

## Case Study 3: Town of Oakville

### PROFILE OF THE TOWN:

Oakville is about 60 kilometres west of downtown Toronto. The town is part of the Halton Region, in the western portion of the Greater Toronto Area (GTA).

Population: 182,520.

Number of private dwellings: 62,412

Population density per km<sup>2</sup>: 1,314

Land area: 138.88 km<sup>2</sup>

Median household income: \$93,400

Immigrant population: 31%

### 1. Overview:

In June 2009, the Town of Oakville adopted the *Liveable Oakville Plan* and started the four-phase *InZone Project* to reassess its zoning by-laws, resulting in the newly updated *Zoning By-law 2014-014*. While still in its fourth phase, and under review with the Ontario Municipal Board (OMB), its predecessor, *Zoning By-law 1984-63*, remains in effect reflecting the most recent amendments passed by City Council on May 2010 (*Zoning By-law Amendment 2010-047*). These amendments introduced new definitions for drive-through facilities, restricted their locations, and introduced new regulations on buffer zones and stacking lanes.

### 2. Background:

In June 2003, the Town of Oakville produced the *Drive-through Facilities Urban Design Study and Guidelines*, setting out the process for reviewing development applications for drive-through facilities on a site-by-site basis. These guidelines remain in effect today.

Recognizing the need to update and amend the Town's zoning by-laws for drive-through facilities, the Planning and Development Council (PDC) began a study of land-use planning policies in 2008. This study resulted in the September 2009 report, *Drive-through Facilities Study and Proposed Directions*, which recommended locational setbacks, and defined additional regulations for buffers and stacking spaces. Stakeholder meetings were held to review the policy suggestions. These public meetings were made up of community members, who primarily voiced concern about the proximity of drive-through facilities to residential areas, as well as industry representatives (Ontario Restaurants, Hotel and Motel Association; McDonald's; Tim Horton's; and Canadian Petroleum Products Institute). The industry representatives:

- Argued that further regulations would compromise the interests of local businesses in providing drive-through facilities, which they believe are an essential customer service;
- Requested a reconsideration of the impacts of drive-through facilities through the use of evidentiary noise and impact setback assessments;
- Questioned the provision of minimum site size requirements, arguing that smaller sites can be very efficient if appropriately located;



## Task 8: Drive-Through Review

- Noted that science clearly shows that drive-through facilities have less impact on air emissions than parking lots.<sup>25</sup>

After the completion of the stakeholder consultation, the PDC staff reviewed the feedback and maintained their initial recommendations, but excluded a minimum site size requirement.

The town's amended zoning by-laws took effect in 2010 just as the Town of Oakville began a four-phase process to reassess its zoning by-laws and align them with the *Livable Oakville Plan*. Currently in the fourth phase of the process, the updated *Zoning By-law 2014-014* is under consideration by the OMB. Consequently, *Zoning By-law 1984-63* remains in effect.

### 3. Drive-through Facilities, Urban Design Study and Guidelines (2003) report:

The Town of Oakville's *Drive-through Restaurants/Convenience Kiosks* report of 2003 outlines the town's concerns and design recommendations for drive-through facilities. Key points are summarized below:

#### A) Design concerns:

- **Impacts on adjacent land-uses (specifically residential):**
  - Engine noise, placing orders at the order box, and car stereos create noise pollution, which is further compounded by facilities that operate 24 hours a day, 7 days a week.
  - Illumination of the site, particularly along the stacking lane and pick-up windows, and the lights of cars lining up and accessing the facility, can produce light pollution at night.
  - Smells associated with food serving can be found to be offensive, while idling cars in drive-throughs generate exhaust fumes.
  - Litter may be increased on sites with drive-through facilities.
- **Impacts on the streetscape:**
  - Drive-through facilities are dominated by vehicles and asphalt while not contributing to the built form that supports pedestrian-friendly and transit-supportive streetscapes.
- **Site planning and traffic concerns:**
  - Increased traffic volumes add to the potential for pedestrian/vehicular conflicts. In particular, stacking lanes that wrap around the building create on-site pedestrian safety concerns.
  - Stacking lanes present greater complexities to the site design (circuitous and intersecting traffic movement, increasing the possibility of traffic congestion and back-ups onto public roads) and may block parking spaces to the site. If a stacking lane has several turning movements, realignments, and/or narrow laneways, it restricts vehicle access to the site.
- **Environmental conditions:**
  - Vehicle emissions can contribute to poor air quality, especially to residential neighbours.

#### B) Design recommendations:

- **Locational criteria:**

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25 TDL Group Corp. commissioned a report by RDWI Air Inc. to test the air quality and emissions levels of vehicles using Tim Horton's facilities. Outlining their methodology (quantitative analysis of 2006 data and 2016 modelling) and conclusions in Briefing Note: Summary of the Air Quality Assessment of Tim Hortons Restaurants: Ontario, Canada (May 2008), RDWI predicts future emissions levels of CO and NOx on Tim Hortons properties with drive-through facilities as being "below the provincial standards in 2006 and even further below in 2016" (p. 4). Their peer-reviewed study concludes that there is "no air quality benefit to the public from eliminating drive-throughs" (p. 3).

- Ensure drive-through facilities are compatible with and sensitive to the urban form, streetscape features, and development plans of the area. Discourage drive-through facilities in the Downtown, Kerr Street Corridor, and Bronte Village.
- **Site access, vehicular and pedestrian traffic:**
  - Minimize numbers and sizes of site access points. Locate them away from street intersections and reduce the amount of vehicular movements necessary to access the drive-through facility. Keep stacking lane access as far into the site as possible and without obstruction from parking stalls.
  - Divide large parking areas into smaller, well-defined sections using hard and soft landscaping to avoid monotonous asphalt surfaces.
  - Provide well-articulated pedestrian routes and zones, linking buildings and parking areas. Raised walkways on the sides of the buildings should have a minimum clear walkway width of 1.0 metre.
- **Stacking lanes:**
  - Avoid interruptions to lanes by other vehicular traffic, articulating the lanes with raised islands or other barriers to separate the space from the main parking areas and driveways.
  - Design the lanes to be linear and straight with a minimum amount of curves and turning movements, providing escape routes where appropriate.
  - Avoid placing lanes in areas where it will block parking spaces and/or loading and service areas.
  - Provide a minimum of 10 stacking spaces, ensuring that there is a minimum length of 7 vehicles available between the entrance to the stacking lane and order station.
  - Avoid double or multiple drive-through facilities on site.
  - Provide clearly visible and appropriately placed directional signage at the entrance and exits of the lanes.
- **Site size:**
  - Discourage fast food drive-through facilities on sites less than 0.3ha in area when located adjacent to residential uses.
- **Relationship to adjacent uses:**
  - Avoid placing drive-through facilities adjacent to residential properties.
  - Provide a landscaped buffer zone of a minimum of 7.5 metres wide and a 1.8 high fence along each yard adjoining residential uses. Ensure that any boundary or noise fence is compatible with the design of the overall site.
  - Place garbage collection areas internal to the building and locate loading areas away from residential properties and at the rear of the building, providing screening from neighbouring properties where needed.
  - Direct lighting sources away from adjacent residential properties and provide screening as necessary.
- **Building and site organization, streetscape, and signage:**
  - Place the building at or near the street frontage and avoid locating parking and/or stacking lanes between the building and the street.

## Task 8: Drive-Through Review

- Where a setback is required, provide ample landscaping in the front yard using coniferous/deciduous trees and shrubs, low decorative fences, and masonry walls.
- Make site entrances accessible and visible from public street. Avoid creating pedestrian access points requiring them to cross driveways, stacking lanes or parking areas.
- Provide outdoor seating spaces and patios adjacent to building and close to the street wherever possible.
- In multi-building developments, encourage the use of complimentary design elements.
- Design corner buildings to address both streets directly, and without parking and/or stacking lanes between the building and street line.
- Incorporate all signage into the design of the building and landscaping, promoting the use of fascia signage and discouraging ground signage.
- **Landscaping:**
  - Maximize on-site landscaping, using a minimum width of 1.5 metres for perimeter landscaping.
  - Provide landscaping on either side of driveway entrances, street trees on the public boulevards (minimum caliper of 70mm), coniferous (minimum 2.4 metres high) and deciduous trees (minimum caliper of 70mm) on landscape buffering (berm where additional height is required), and low maintenance and salt tolerant species of coniferous and deciduous plants for year-round vegetation.

### **4. Drive-through Facilities Zoning By-Law Amendment 2010-047 (2010):**

After commissioning and reviewing the *Drive-through Facilities Study and Proposed Directions* report, the PDC recommended the following by-law amendments be made to the *Zoning By-law 1984-63*:

- By-laws should be amended to reflect the *Livable Oakville* policies which prohibit drive-through facilities in the areas classified as the Central Business District and Growth Areas.
- Allowance of drive-throughs in C1, C2, and C6 Commercial Zones, but with the added requirement that they only be permitted where the sites are on roadways which are classified as major arterials within the Town's Official Plan.
- Because drive-through facilities are traffic intensive, a minimum 15 metre setback is recommended for all yards of a drive-through facility (including the order station) which abut a residential zone.
- Order stations and stacking lanes should be located as far away from the abutting residential uses as possible. Acoustic and visual barriers should be provided along property lines consisting of 7.62 metres of landscaped buffer and a 1.8 metre high solid board fence or masonry wall along the property boundary which abuts the residential zone.
- Stacking lane minimum requirements are 10 spaces. 7 of those spaces should be accommodated between the entrance to the stacking lane and the order station. Ensure that the queuing spaces are maintained on the private property and do not back up onto the public road.

## 5. Town of Oakville's Zoning By-laws:

### Zoning By-law 2009-189:

The *North Oakville Zoning By-law 2009-189* defines drive-through but does not identify them as a permitted use in any of the existing zones.

### Zoning By-law 1984-63:

The Town of Oakville's *Zoning By-law 1984-63* only permits drive-through facilities in the following zones:

- In Commercial Zones:
  - C1, C2: Only permitted on a lot abutting a roadway classified as a major arterial within the Town of Oakville Official Plan.
  - C3: Not permitted on a lot abutting a residential zone. Only permitted on a lot abutting a roadway classified as a major arterial within the Town of Oakville Official Plan.
  - C3A: Not permitted on a lot abutting a residential zone.
  - C6, C7: The accessory sale of food and sundry uses (Restaurants – take-out and drive-through windows) are only permitted in conjunction with an automobile service station, and each only within the same enclosed building or portion thereof as the service counter directly related to the consumer purchase of automobile fuels and products. Only permitted on a lot abutting a roadway classified as a major arterial within the Town of Oakville Official Plan.
- In Employment Zones:
  - E1, E2, and T1: Not permitted on a lot abutting a residential zone.

The zoning by-laws reflect the updated definitions as recommended in the *Drive-through Facilities Zoning By-Law Amendment*:

- “drive-through facility” means the use of land, buildings or structures, or parts thereof, to provide or dispense products or services through an attendant or a window or an automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be in combination with other uses. A drive-through facility does not include a car washing establishment, automobile service station or a gas bar.
- “stacking lane” means a continuous on-site queuing lane that includes stacking tandem spaces for motorized vehicles which is separated from other vehicular traffic and pedestrian circulation by barriers, markings or signs.

In all Commercial and Employment Zones where drive-through facilities are permitted:

- A minimum of 10 tandem queuing spaces (7 of which shall be provided between the order station and the entrance to the stacking lane) shall be required in addition to other required parking spaces.
- Specific to Commercial Zones C1 and C2:
  - A minimum distance of 15 metres shall separate all points of the drive-through stacking lane and order boxes using voice communication (speaker location) from any lot line abutting a residential zone.
  - A solid wood board fence or masonry wall of not less than 1.8 metres in height shall be provided immediately adjacent to any lot line abutting a lot in a residential zone.
- In addition to the above regulations, Commercial Zone C6 requirements include:

Task 8: Drive-Through Review

- A minimum buffer strip abutting a residential zone of 7.62 metres
- Only one drive-through facility will be permitted in association with either a retail sale of food and sundry use of take-out restaurant.

**Zoning By-law 2014-014:**

The Town of Oakville’s updated *Zoning By-law 2014-014*, which is currently under appeal with the OMB, permits drive-through facilities only in the following zones:

- In Commercial Zones:
  - C1, C2, C3: permitted only on a lot abutting a major arterial road.
  - C4: permitted only on a lot abutting a major arterial road with a maximum of one drive-through facility per site.
- In Employment Zones:
  - E1, E2, E4: Shall not be permitted on a lot abutting any Residential Zone.

Definitions:

- Uses the same definition of “stacking lane” as *Zoning By-law 1984-168*.
- Revised definition of “drive-through facility”: the use of land, buildings or structures, including an order box with or without voice communication, or parts thereof, to provide or dispense products or services through an attendant, a window, or an automated machine to persons remaining in motor vehicles in a designated stacking lane.

The zoning regulations for drive-through facilities are replicated below:

**5.5 Drive-through Facilities and Stacking Lanes**

**5.5.1 Locations**

- a) The minimum setback for all points of a *drive-through facility* from any *lot line* abutting any Residential Zone shall be 15.0 metres.
- b) A *stacking lane* shall be separate from an *aisle* or *driveway*.

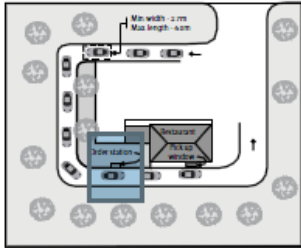
**5.5.2 Minimum Number of Stacking Spaces**

- a) Each *stacking space* in a *stacking lane* shall have a minimum width of 2.7 metres and a minimum length of 6.0 metres.
- b) The minimum number of *stacking spaces* required in a *stacking lane* shall be calculated in accordance with the standards set out in Table 5.5, below.

Use	Minimum Number of Stacking Spaces
<i>Financial institution</i>	4
<i>Motor vehicle washing facility</i>	8 (1)
<i>Restaurant</i>	10 (2)
<i>Retail store</i>	4
<i>School, private</i>	10 (3)
<i>School, public</i>	10 (3)
<i>Service commercial establishment</i>	4

**Additional Regulations for Stacking Spaces Table 5.5**

1. An additional two *stacking spaces* are required at the exit of the *motor vehicle washing facility*.
2. Of these, seven *stacking spaces* shall be provided at or before the order station where an order station is provided.
3. Section 5.5.1 shall not apply.



*Conceptual layout for a restaurant stacking lane.*

## Case Study 4: City of Hamilton

### PROFILE OF THE CITY:

Hamilton is a port city located at the foot of the Niagara Escarpment in the western tip of Lake Ontario, between Toronto and Niagara Falls.

Population: 519,949.

Number of private dwellings: 203,806

Population density per km<sup>2</sup>: 465.4

Land area: 1,117.23 km<sup>2</sup>

Median household income: \$60,259

Immigrant population: 25%

### 1. Overview:

In November 2008, Hamilton City Council began an investigation into whether the municipality should fully prohibit or regulate drive-through facilities. Recognizing that an outright ban of drive-throughs would unlikely be approved if appealed to the Ontario Municipal Board (OMB), City Council amended the zoning by-laws to include drive-through facility location restrictions and requirements, and stacking lane regulations. These remain in effect today.

In 2009, Hamilton introduced its new Urban Official Plan (UOP), which included provisions prohibiting drive-through facilities from the downtown area, on pedestrian predominant streets, and in mixed-use high and medium density areas. The Quick-Service Restaurant (QSR) industry appealed the UOP's prohibition to the OMB. In August 2013, the UOP was approved by the OMB upholding the prohibition of drive-through facilities from the downtown area, but permitting facilities in mixed-use high and medium density areas (OMB File No.: PL090779, issued August 16, 2013).<sup>26</sup>

### 2. Background:

In 2001, the City of Hamilton produced a design report, *Site Plan Guidelines*, which provides parameters for development within the city at the site planning stage. The design directions for drive-through facilities include on-site design, design elements in proximity to residential and institutional uses, landscaping, noise attenuation and minimum stacking spaces. These guidelines remain in effect today.

Updates made to the Hamilton's 2005 zoning by-law contained no regulations pertaining to drive-through facilities. As a result, in 2008, City Council consulted with the Planning and Economic Development staff, the Medical Officer of Health, and the Manager of Traffic Engineering and Operations to decide on which route to take: the prohibition or regulation of drive-through facilities. Legal Services recommended the City not prohibit drive-throughs outright as the prohibition would likely be unsuccessful if appealed to the OMB. The regulation and restriction of sites would more likely to be approved if appealed. Thus, in 2009, City Council recommended that staff review zoning regulations and site plan guidelines to better regulate drive-through design, reduce conflicts with pedestrians and adjacent residential and institutional uses, provide adequate on-site parking and avoid stacking of vehicles on city roads. New definitions outlining drive-through facilities and stacking lanes as accessory uses, along with some minimal recommendations made in the 2009 report, were included in the 2010 updated Zoning By-law.

<sup>26</sup> Ontario Municipal Board. Case No. PL080959, issued August 16, 2013. Retrieved from: [https://www.omb.gov.on.ca/e-decisions\\_old/pl110331-aug-16-2013.pdf](https://www.omb.gov.on.ca/e-decisions_old/pl110331-aug-16-2013.pdf)

Concurrent with the zoning by-law updates, the City of Hamilton released its new UOP, which was adopted by City Council in 2009. However, QSR operators (TDL Group, A&W, McDonald's, and Wendy's) appealed the UOP's prohibition of drive-through facilities in the downtown area, on pedestrian predominant streets, and in mixed-use high and medium density areas. In August 2013, after settling with the QSR operators, the OMB approved the City of Hamilton's new UOP with some modifications (OMB File No.: PL090779). The revised UOP allows for the restriction of drive-through facilities from the downtown area, but permits them in mixed use high and medium density areas (subject to urban design and other requirements).

### **3. Site Plan Guidelines (2001):**

The City of Hamilton's *Site Plan Guidelines* of 2001 includes the city's design parameters for drive-through facilities. These guidelines do not offer much in the way of specific design requirements. They are vague and subjective at best, leaving much control to the site developer. The guidelines are outlined below:

- Drive-through facilities should be located behind or alongside the principal building that is oriented to the street. Where a drive-through facility must be located between the building and the street as there are no other design alternatives or safety may be compromised, the boulevard adjacent to the drive-through aisle must be extensively landscaped.
- Site design should consider both vehicular access as well as pedestrian movements throughout this site. The main building entrance should be located as far as possible from the order window. Pedestrians should be able to enter the main door of the restaurant from the parking lot without crossing the stacking lane, where possible.
- Site operations and stacking lanes should be located away from adjacent streets to ensure that site operations do not disrupt traffic on public streets.
- Standards for drive-through food establishments require a minimum of 12 vehicle stacking spaces be provided.
- Stacking areas should be located away from adjacent residential and institutional areas, where possible and should be separated by raised islands, be well signed to provide for ease of use and located so as to avoid crisscrossing of lanes.
- Order boards with an intercom should be designed to minimize noise impact on adjacent residential or institutional areas.
- Solid barriers and landscaping should be provided adjacent to residential areas. Fencing, berming, and landscaping or combination of these elements should be used to reduce headlight glare and noise from the drive-through facility.
- In urban areas, drive-throughs should have strong architectural features such as canopies to extend and create building mass.

### **4. Prohibition or Regulation of Drive-through Facilities within the City of Hamilton (2009):**

The 2009 *Prohibition or Regulation of Drive-through Facilities within the City of Hamilton* report outlines the issues and recommendations for the Zoning By-law amendments. Key points include:

- Issues:
  - **Traffic:** Lack of stacking spaces occasionally results in overflow extending onto city streets with sites that are too small to accommodate the restaurant's traffic. Preference of vehicle

movement over the pedestrian on site results in buildings sometimes being completely encircled by the drive-through lane.

- **Health:** On-site idling increases gas emissions that negatively affect the overall health of the general population. Drive-through facilities support car culture and physical inactivity.
- **Adjacent uses:** Issues with neighbouring residential and institutional properties arise over idling cars next to back yards and noise from speaker boxes
- **Benefits:**
  - Convenience and accessibility: Drive-through facilities offer support for parents with young children and ease of accessibility for those with disabilities.
- **Recommendations for new zoning by-laws:**
  - Create different use definitions for restaurants and doughnut/coffee shops
  - Minimum number of stacking spaces from the service window for restaurants: 12-20 spaces
  - Locational specific regulations:
    - Required stacking spaces shall not be obstructed (i.e. Not located in a parking lot aisle preventing the flow of traffic)
    - Shall not be located between the required parking and the entrance door
    - Drive-through lane shall not be located between the street and the building
  - Require a solid board fence and planting strip where drive-through lane abuts or is in proximity to residential or institutional property line
  - Require minimum lot size dedicated to a drive-through to ensure land is capable of all requirements of the zoning by-law
  - Minimum setbacks from residential or institutional uses
  - Only permit drive-throughs at restaurants where seating is provided in the restaurant

## 5. City of Hamilton's Zoning By-law 05-200 (2010):

The City of Hamilton's *Zoning By-law 05-200* defines drive-through facilities and stacking lanes as:

- **Drive-through facility:** a facility that is designed to allow drivers to remain in their vehicles before and during an activity on the site, and may include drive-in or drive-through restaurants, retail and service uses, but shall not include a Motor Vehicle Washing Establishment.
- **Motor Vehicle Stacking Space:** an area devoted to the waiting or queuing of motor vehicles accessing a drive-through facility, separate from any aisle providing access to and from any parking area.

The zoning by-law has the following regulations for drive-through facilities:

- Every drive-through shall provide the following minimum number of stacking spaces from the service window: Restaurant – 12 spaces
- No stacking spaces shall be less than 2.6 metres in width by 6.0 metres in length, unless otherwise provided for in this By-law.
- Drive-through facilities are prohibited in:



## Task 8: Drive-Through Review

- Downtown zones: D1 Downtown Central Business District, D2 Prime Retail Streets, D3 Mixed Use, D4 Local Commercial
- City Park Zones
- M1 Industrial Zones

The zoning regulations for drive-through facilities are replicated below:

4.25 DRIVE THROUGH REGULATIONS	
a)	Notwithstanding any other provisions in this By-law, every drive through shall provide the following minimum number of stacking spaces from the service window:
i)	Restaurant - 12 spaces
ii)	All other uses - 3 spaces
b)	No stacking spaces shall be less than 2.6 metres in width by 6.0 metres in length, unless otherwise provided for in this By-law.
(By-law 10-128, May 26, 2010)	

## 6. City of Hamilton's Urban Official Plan (2013):

The City of Hamilton's *Urban Official Plan* outlines the locational parameters for drive-through facilities:

- Drive-through facilities accessory to commercial uses shall be regulated through the Zoning By-law and site plan approval to ensure compatibility with adjacent uses, in accordance with Policy E.3.8.17 (E.3.8.3)
  - No parking, drive-throughs, or stacking lanes should be permitted between buildings and the public sidewalk (E.3.8.17)

### Prohibited:

- Drive-through facilities are prohibited on lands designated Downtown Mixed Use (E.4.4.6)
  - Applications to amend this Plan and/or the City's Zoning By-law to permit a drive-through in a Downtown Mixed Use designation shall require demonstration that the proposed drive-through facility:
    - » Cannot be located in other potential locations outside the Downtown Mixed Use designation
    - » Addresses the applicable policies of the Downtown Hamilton Secondary Plan
    - » Complies with the requirements for drive-through facilities located on pedestrian predominant streets (E.4.3.4) including demonstration that the proposed drive-through facility:
      - › Does not change the existing and planned streetscape character
      - › Maintains the pedestrian environment
      - › Does not compromise the safe, efficient and comfortable movement of pedestrians
    - » Shall not preclude the planned function and design intent for the pedestrian predominant street including:

- › A comfortable, active and visually stimulating walking and shopping environment
- › A streetscape with buildings and storefronts oriented to the street
  - Shall not have an adverse impact on surrounding residential neighbourhoods including potential noise and traffic impacts
- » Addresses the design principles: Section B 3.3.2: urban design; 3.3.3: built form; 3.3.9: site access and circulation (4.4.15)

**Permitted:**

- Drive-through facilities are permitted on lands designated: Mixed Use – High Density (E.4.5.5) and Mixed Use – Medium Density (E.4.5.6)
  - On non-pedestrian predominant streets, buildings shall be located close to the street with no parking, drive-throughs, or stacking lanes between the building and the street (E.4.5.15 / E.4.6.21)
  - Applications to amend this Plan and/or the City's Zoning By-law to permit a drive-through facility on a pedestrian predominant street in a Mixed Use – High Density (E.4.5.21) or Mixed Use – Medium Density (E.4.6.21) designation shall require demonstration that the proposed drive-through facility:
    - » Cannot be located in other potential locations in the Mixed Use – Medium (E.4.5.21) or High (E.4.6.21) Density designation which are not part of the pedestrian predominant street
    - » Complies with the requirements for drive-through facilities located on pedestrian predominant streets (E.4.3.4) including demonstration that the proposed drive-through facility:
      - › Does not change the existing and planned streetscape character
    - » Maintains the pedestrian environment
    - » Does not compromise the safe, efficient and comfortable movement of pedestrians
      - › Shall not preclude the planned function and design intent for the pedestrian predominant street including:
        - A comfortable, active and visually stimulating walking and shopping environment
        - A streetscape with buildings and storefronts oriented to the street
    - » Shall not have an adverse impact on surrounding residential neighbourhoods including potential noise and traffic impacts
      - › Addresses the design principles: Section B 3.3.2: urban design; 3.3.3: built form; 3.3.9: site access and circulation
- Drive-through facilities are permitted on lands designated: District Commercial (E.4.7.14) provided they meet the requirements of Policy E.4.7.13
  - No parking, driveways, lanes, stacking lanes, or aisles should be permitted between buildings and the public sidewalk and should be located away from the pedestrian-oriented area (E.4.7.13)

## Case Study 5: City of Ottawa

### PROFILE OF THE CITY:

The City of Ottawa is the national capital of Canada. It is Ontario's second - and Canada's fourth- largest city. In addition to a number of civic buildings, Ottawa is one of Canada's main technology centres.

Population: 883,391

Number of private dwellings: 353,244

Population density per km<sup>2</sup>: 316.6

Land area: 2,790.22 km<sup>2</sup>

Median household income: \$93,440

Immigrant population: 23.4%

### 1. Overview:

After the new Official Plan was approved in 2003, the City of Ottawa began revising its Zoning By-laws to reflect the Plan's pedestrian-focus by restricting drive-through facility locations throughout the city. In 2009, a year after the release of the City's new Zoning By-law, an appeal was made to the Ontario Municipal Board (OMB) by TDL Group Inc over newly prohibited locations of drive-through facilities, but was settled via mediation. As a result of the settlement, the prohibition of drive-through facilities throughout some areas of the city (such as Heavy Industrial Zones) was eased (OMB Case No. PL080959, issued March 18, 2010).<sup>27</sup>

### 2. Background:

When the City of Ottawa released its new Official Plan in 2003 it prohibited drive-through facilities from certain zones of the city (such as on Traditional Mainstreets, within the Central Area, and within the village Core areas of Rural Communities). To bring the City's Zoning By-laws in line with the Official Plan, the City reviewed the by-laws, approving them in 2008. However, TDL Group Inc. objected to the by-law's prohibition of drive-throughs in some areas of the city, such as Heavy Industrial and Community Leisure Zones. TDL Group Inc. appealed the new by-laws to the OMB, arguing that the city failed to provide any planning justification for the removal of drive-through facilities as permitted uses in certain Zones, noting that there were no Official Plan policies to support the change. A settlement was reached following mediation with the OMB and adjustments were made to allow for drive-through facilities in some areas that had been prohibited (such as in Heavy Industrial zones).

### 3. Urban Design Guidelines for Drive-through Facilities (2006):

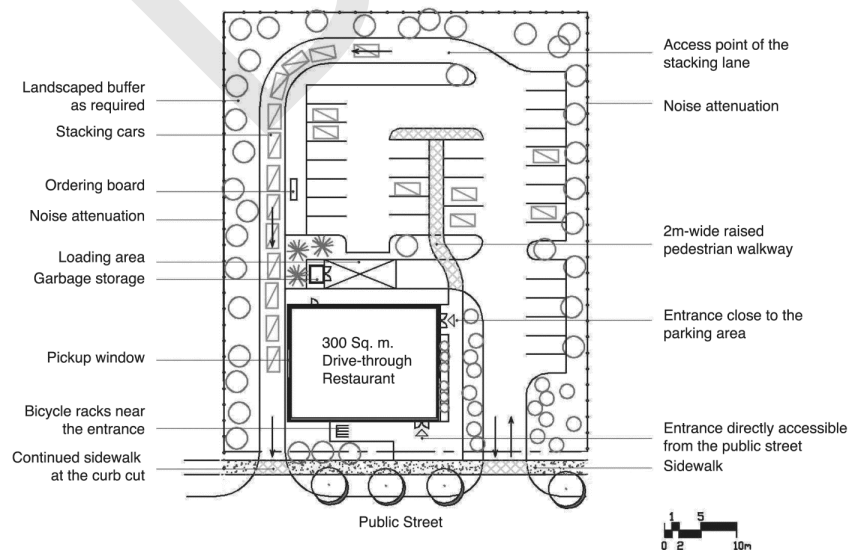
In addition to the new Zoning By-law, the City of Ottawa released the *Urban Design Guidelines for Drive-through Facilities* to provide design parameters for new drive-through facility development. Some key guidelines are outlined below:

- Drive-through facilities should fit into the context of the surrounding neighbourhood. This includes keeping the facilities as close to the street as possible and designing the site with ample landscaping.
- Weather protection and public amenities (outdoor seating, bicycle parking, etc.) should be located close to the building entrances. Entrances should be close to parking areas and clearly visible and accessible from the public sidewalk.

<sup>27</sup> Ontario Municipal Board. Case No. PL080959, issued March 18, 2010. Retrieved from: <https://www.omb.gov.on.ca/e-decisions/pl080959-mar-18-2010.pdf>

- Provide unobstructed 2.0 metre wide sidewalks in the public right-of-way across private access driveways (with little or no change in elevation) and between public sidewalks using landscaping to delineate the pathways.
- Locate surface parking and stacking lanes at the side or rear of buildings and away from sensitive uses (such as residential and outdoor amenity areas) to minimize noise and pollution impacts. Stacking lanes should include an escape lane, and should be separated from parking areas and driveways. Provide separate stacking lanes when two drive-through uses exist on the same site.
- Design on-site circulation to minimize conflicts between pedestrians and vehicles. Divide large parking lots into smaller, well-defined sections using soft and hard landscaping.
- Plant street trees between 7.0 to 10.0 metres apart along public streets in permeable surface areas with approximately 10.0 m<sup>2</sup> of soil area per tree. Provide a minimum 3.0 metre wide landscape area along the edge of a site where parking areas, drive lanes or stacking lanes are adjacent to a public street; a 2.5 metre wide landscape area along the site's side and rear yards; and a 3.0 metre wide landscape area (which may include a solid wall or fence in addition to planting) at the edges of the site that are adjacent to residential or institutional properties.
- Protect heritage features on-site (such as mature trees), preserve permeable surfaces, and use sodded areas and shrub beds to collect, store and filter stormwater.
- Design sign illumination to be task-oriented, and site lighting to avoid glare/light spillover into neighbouring properties.
- Design garbage facilities as external to the building and enclose all utility equipment within buildings or screen them from view from the public street.
- Locate noise-generating areas (i.e. Ordering board speakers, loading areas, garbage storage, etc) away from sensitive areas such as residential areas and schools. Buffer potential noise impacts with building structures, landscaped berms or attenuation fencing (minimum 1.8 metres in height).

The *Urban Design Guidelines* provide the following layout suggestion for a drive-through facility:



#### 4. Relevant By-Laws

The review and approval of drive-through development applications in Ottawa require the implementation of Official Plan policies in Sections 2.5.1, 3.6.3, 3.7.1, 4.6.1, 4.11, the *Urban Design Guidelines for Drive-through Facilities*, the provisions in Zoning By-law 2008-250 and the Use of Private Approaches By-law (By-law 2003-447). This framework is intended to provide a balanced approach to regulating the development of new drive-through facilities by addressing compatibility, heritage-related issues, safe access, site character, and detailed design considerations regarding built form, site design and streetscaping.

##### **Ottawa Zoning By-law 2008-250 (2008):**

The City of Ottawa's *Zoning By-law 2008-250* defines drive-through facilities and stacking lanes as:

- **Drive-through facility:** a premises used to provide or dispense products or services through an attendant or a window or an automated machine, to persons remaining in vehicles that are in a designated queuing space, and may be in combination with other land uses.

Drive-through facilities are permitted in:

- Mixed-Use/Commercial Zones: Arterial Mainstreet, General Mixed-Use (prohibited in subzones GM7, GM17, and GM28), Local Commercial (with some qualifications), and Mixed-Use Centre
- Industrial Zones: General Industrial, Heavy Industrial, Light Industrial
- Rural Zones: Rural Commercial, Rural Heavy Industrial

##### **Section 112 – Provisions for Drive-through facilities**

Section 112 of the by-law contains provisions specific to the operation of drive-through facilities regarding minimum number of queuing spaces, location of queuing spaces and location of order board, as follows:

### Provisions for Drive-Through Operations (Section 112)

112. (1) Where a drive-through facility is a listed permitted use, and is provided on a site, off-street motor vehicle queuing space must be provided for that drive-through facility leading both to and from each service bay, window, kiosk or booth for the uses specified and at the rate set out in Table 112.

Table 112- Minimum Number of Queuing Spaces Required

I Land Use	Minimum Number of Queuing Spaces Required		
	II Leading to Use	III Leaving Use	
(a) Bank or bank machine	3 before/at each machine	1 after each machine	
(b) Car Wash	(i) Conveyor Type	10 before/in each wash bay	1 after each wash bay (if a through bay)
	(ii) Automatic Type	10 before/in each wash bay	
	(iii) Manual Type	5 before/in each wash bay	
(c) Restaurant	(i) No order board: 4 spaces before/at service window;		
	(ii) With order board: 7 before/at order board and a minimum total of 11 (OMB Order, File #PL080959 issued May 20, 2009)		
(d) In all other cases	3 spaces before/at service window		

- (2) All queuing spaces must be:
- at least 3 metres wide; and
  - at least 5.7 metres long.
- (3) No queuing line, drive-through window or order board may be located within 3 metres of a lot line abutting a residential zone.
- (4) Despite subsection (3), where a queuing line, drive-through window or order board is located 3 metres or more from a residential zone, but is still within a yard abutting a residential zone, it must be screened from view from that residential zone by an opaque screen with a minimum height of 1.5 metres. (By-law 2011-124)

#### By-law 2003-447: Use of Private Approaches

The Use of Private Approaches By-law regulates the number, width and location of private approaches permitted from a public right-of-way to private property. Distances between adjacent private approaches and adjacent intersections are also regulated through this By-law. Issuance of a Private Approach Permit and a Road Cut Permit is required prior to the construction, relocation, alteration or closing of a private approach. The proposed location of a private approach associated with a drive-through facility would be evaluated as part of the site plan control approval process<sup>28</sup>.

28 City of Ottawa, Planning and Growth Management Department. Drive-through facilities in the Village Core Context.

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