



## Memorandum

**TO:** RULES AND OPEN GOVERNMENT COMMITTEE      **FROM:** Councilmember Donald Rocha

**SUBJECT:** DRIVE-THROUGH POLICY      **DATE:** August 15, 2018

Approved

*Don Rocha*

Date

*8/16/18*

### RECOMMENDATION

That the Rules Committee add the following proposal to the next workload priority setting session:

Direct staff to review the setback criteria contained in section VII of Council Policy 6-10 (entitled "Criteria for the Review of Drive-Through Uses"). Staff should evaluate whether it still makes sense to allow some drive-through projects to be built without any setback from residential, while requiring other drive-through projects to abide by a 200-foot setback requirement.

### ANALYSIS

Council Policy 6-10 establishes criteria for evaluating proposed drive-through uses, such as fast food drive-throughs or drive-through car washes. Special criteria for evaluating drive-throughs are useful because drive-throughs can cause problems. For example, cars waiting at a drive-through can back up onto the street, noise from fast food drive-through speakers or from carwash equipment can disturb surrounding residents, and fumes from idling vehicles can drift to neighboring properties.

I've dealt with three controversial drive-through proposals in my district over my eight years on the Council, and in each case the setback rules in Policy 6-10 were the source of confusion and controversy. The setback rules (found in Section VII of the policy) require that most drive-through uses be set back 200 feet from residential properties, but they also establish a narrow exception: car washes that are co-located with a gas station can be approved without any setback at all.

This discrepancy between setbacks for different projects has caused trouble on both sides. On projects where the car wash is not co-located with a gas station and does not qualify for the setback exception, I've had frustrated applicants ask why their project is any different from the many other car washes around the city that have been approved under the exception with setbacks of less than 200 feet. On projects that do meet the exception,

I've had frustrated community members ask why their neighborhood is any less worthy of protection than other neighborhoods where the 200 ft. setback applies. Both sides have a point: the impact of a car wash on an adjacent neighborhood is very similar whether or not it's co-located with a gas station.

My response to these controversies has been to try to chart a middle course. In some cases I've been comfortable with slightly less than a 200 foot setback even for projects that don't qualify for the exception if the applicant makes efforts to screen neighbors from any impact, and, on the other side, I've also recommended denial of projects that take advantage of the exception in ways that would harm neighboring residents. In all of these cases, the setback rules contained in the policy have been more of a hindrance than a help: they've caused confusion and have not provided a useful framework for making decisions on projects.

Policy 6-10 was first established in 1979 and last amended in 1990. Given that we've had twenty-eight years of implementation experience since this policy was last considered by the Council, I think it would be worthwhile for staff to take a look at the policy and consider whether the setback criteria still make sense. My intent here is not to predetermine if or how the policy should be amended, but to suggest that we should have staff look at this issue. I don't know what my colleagues' experience has been with drive-through projects, but if it's been anything like mine we all might be glad of a more thoughtfully written policy that can set appropriate expectations for applicants and community members. My recommendation is to send this issue to priority setting, so the Council would have an opportunity to decide whether staff should be asked to work on it.