



TOWNSHIP OF WEST ORANGE

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Department of Planning and Development

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TO: Planning Board Members

FROM: Paul Grygiel, AICP, PP, Township Planner

DATE: September 28, 2023

RE: **Master Plan Consistency Review – Ordinance 2819-23 (Clarifying Use of Drive-Up Windows)**

The Municipal Land Use Law at N.J.S.A. 40:55D-26a includes the following requirement:

Prior to the adoption of a development regulation, revision, or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate.

The Township Council introduced a proposed Ordinance 2819-23 at its September 19, 2023 meeting, which proposes limited changes to the Land Use Regulations Ordinance section permitting drive-up windows as an accessory use in certain zones. This memorandum reviews this ordinance for master plan consistency.

Section 25-11.14 was added to the Land Use Regulations Ordinance in September 2020 to explicitly permit drive-up windows, pursuant to certain regulations. It was included as part of Township Ordinance 2617-20, which included the stated purpose in its title “to implement recommendations of the master plan reexamination.” It was one of a number of changes that were recommended in the 2019 Master Plan Update adopted by the Planning Board on January 8, 2020. The particular recommendation is on page 29 of the Reexamination in the recommended zoning changes section, and reads as follows: “Permit drive-through windows as customarily



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accessory use for banks, fast food and pharmacies (with standards for vehicle stacking etc.).” It is repeated in the Land Use Plan Element Amendment on page 34. The initial zoning change adopted in 2020 was therefore consistent with the Master Plan.

The purpose of this Ordinance 2819-23 “is to further clarify the use of Drive-Up windows for public establishments within the Township.” The two proposed changes to Section 25-11.14 in Ordinance 2819-23 are as follows:

- Deleting one use category with which drive-up windows are permitted: “A drive-up window shall be permitted as an accessory use for banks, restaurants, ~~fast food restaurants~~, pharmacies and similar retail uses in the zoning districts in which such uses are permitted...” (deleted language in ~~strikethrough~~)
- Adding the following additional requirement: “Any restaurant must be situated on property consisting of 5 or more acres and provide ample queuing to ensure that no waiting vehicles are in or on a public thoroughfare or street.”

The rationale for the change provided in the “Legislative History” section of Ordinance 2819-23 is as follows:

“Drive-up establishments cause increased traffic and congestion which may cause hazard to pedestrians, cyclists and other cars create pollution with idling car and truck engines and create additional garbage. These conditions contradict environmental and livability goals of the Township. However, if sufficient land mass exists to provide safe egress and ingress, such uses may be appropriate. Nothing contained herein shall impact existing drive-up fast food and restaurant uses which are not subject to change.”

The proposed ordinance amendment would be contrary to a recommendation of the Master Plan, and would therefore be inconsistent with that particular section.

