

TO: JAMES L. APP, CITY MANAGER

FROM: ROBERT A. LATA, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: CODE AMENDMENT 02-015 TO PROHIBIT DRIVE-THROUGH RESTAURANTS IN THE DOWNTOWN AREA AND CLARIFY THE STATUS OF OTHER DRIVE-THROUGH USES CITY WIDE (CITY INITIATED)

DATE: DECEMBER 17, 2002

Needs: For the City Council to hold a public hearing to consider a City Initiated Code Amendment that would amend the Zoning Code regarding drive-through uses in the City. The Code Amendment would establish the following code changes;

- a. Amend Section 21.16.200.F.13 to add language that would prohibit drive-through restaurants in the downtown area.
- b. Amend Section 21.16.200.M to clearly provide for other types of drive-through sales and service uses as an accessory to banks, coffee shops, pharmacies and other similar uses.
- c. Amend Section 21.08 to add the following definitions:

**Drive-through Restaurants:** Facilities where food may be purchased by motorists without leaving their vehicles.

**Drive-through Sales/Services:** Facilities where services and minor sales may be obtained by motorists without leaving their vehicles. Includes drive-up bank teller windows, pharmacies, dry cleaners, coffee shops and other similar uses. Excludes drive-through restaurants.

- Facts:
1. At the City Council meeting on September 3, 2002, the Council adopted Code Amendment 02-010 (Ordinance No. 838 N.S.) allowing drive-through restaurants in C1 zones with a Conditional Use Permit.
  2. In conjunction with approval of Code Amendment 02-010, Council directed Staff to initiate a Code Amendment that would prohibit drive-through restaurants in the downtown area.
  3. The "downtown area" is defined in Section 21.22.030 Definitions, to be the geographic area which includes the area generally bounded by 7<sup>th</sup> Street on the south, 17<sup>th</sup> Street on the north, Oak and Vine Streets on the west, and State Highway 101 on the east (see attached Vicinity Map).

4. Table 21.16.200 currently allows drive-through restaurants as permitted uses in the C2 and C3 zones and within the C1 zone with the approval of a Conditional Use Permit. Each one of these Commercial zoning designations is located within the downtown area. This Code Amendment would prohibit drive-through restaurants within the defined downtown area (regardless of zone), but would still provide for the uses outside of the downtown area.
5. Other drive-through sales/service uses such as banks, coffee shops and pharmacies are currently not addressed in Table 21.16.200. This Code Amendment would add a section to Table 21.16.200.M General Accessory Uses Common to Most Zones, to more clearly provide for the ability to establish these other drive-through sales/services since there are various existing drive-through banks and coffee shops both downtown and elsewhere in the City, the adoption of this Code Amendment would help bring the existing uses into conformance with the Zoning Code.
6. The Planning Commission reviewed the Code Amendment at the hearing on November 26, 2002, where the Commission recommended that the City Council approve Code Amendment 02-015 on a five to one vote, where there were five Commissioners in favor of the Code Amendment and one against (with one Commissioner absent).

Analysis and  
Conclusion:

This code amendment would eliminate the ability to establish drive-through restaurants in the downtown as requested by the City Council. Also, this code amendment would establish the ability to provide for other drive-through sales/service uses such as banks, coffee shops and pharmacies and similar uses. Each drive-through situation would be reviewed by the DRC and/or the Planning Commission depending on the necessary review process for each specific site.

The Code Amendment indicates definitions that differentiate between drive-through restaurants versus other drive-through sales/service uses.

Please note that outside of the downtown area, drive-through restaurants will still be permitted as described in Table 21.16.200, Permitted/Conditionally Permitted Land Uses.

Policy

Reference:

City Zoning Code and General Plan Land Use Element

Fiscal

Impact:

None.

Options:

After consideration of all public testimony, that the City Council adopt one of the following options:

- a. **(1)** Adopt Resolution No. 02-xx adopting a Negative Declaration for Code Amendment 02-015 application; and
- (2)** Introduce for first reading Ordinance No. XXX N.S. approving Code

Amendment 02-015 changing Section 21.16.200.F.13 of the Zoning Code by adding language that would prohibit drive-through restaurants in the downtown area and amend Section 21.16.200.M to allow drive-through sales/services such as banks, coffee shops, pharmacies and other similar uses as determined by the Development Review Committee and/or the Planning Commission depending on the necessary review process for each specific site, provide for related definitions, and set January 7, 2003, as the date for adoption of said Ordinance.

- b.** That the City Council amend, modify, or reject the above option.

**Attachments:**

1. Downtown Area Vicinity Map
2. Draft Negative Declaration Resolution
3. Draft Ordinance approving Code Amendment 02-015
4. Newspaper Notice Affidavit

h:/Darren/codeamend/CA02-015/CCRpt

RESOLUTION NO. 02-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES  
APPROVING NEGATIVE DECLARATION FOR CODE AMENDMENT 02-015  
THE PROHIBITION OF DRIVE THROUGH RESTAURANTS IN THE DOWNTOWN AREA  
AND PROVIDE FOR OTHER DRIVE THROUGH USES CITY WIDE  
(CODE AMENDMENT 02-015)

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WHEREAS, on September 3, 2002, in conjunction with Code Amendment 02-010, the City Council directed staff to return to the City Council with a Code Amendment that would prohibit drive through restaurants in the downtown area; and

WHEREAS, the Code Amendment 02-015 has been noticed in a manner to permit the Planning Commission and City Council to prohibit drive through restaurants in the downtown area, but also provide for other drive through uses that are accessory to banks, coffee shops, pharmacies and other similar uses; and

WHEREAS, an Initial Study was prepared for this project and is labeled Exhibit A (on file in the Community Development Department); and

WHEREAS, public notice of the proposed Negative Declaration was given as required by Section 21092 of the Public Resources Code; and

WHEREAS, a public hearing was conducted by the Planning Commission on November 26, 2002, and the City Council on December 17, 2002, to consider facts as presented in the staff report prepared for this project, and to accept public testimony regarding this proposed subdivision.

NOW, THEREFORE, BE IT RESOLVED, that based on the City's independent judgment, the City Council of the City of El Paso de Robles does hereby approve a Negative Declaration for Code Amendment 02-015 in accordance with the California Environmental Quality Act.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 17<sup>th</sup> day of December 2002 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Frank R. Mecham, Mayor

ATTEST:

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Sharilyn M. Ryan, Deputy City Clerk

ORDINANCE NO. \_\_\_\_ N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES  
AMENDING THE ZONING TITLE OF THE MUNICIPAL CODE  
REGARDING THE PROHIBITION OF DRIVE THROUGH  
RESTAURANTS IN THE DOWNTOWN AREA AND PROVIDE FOR  
OTHER DRIVE THROUGH USES CITY WIDE  
(CODE AMENDMENT 02-015)

WHEREAS, on September 3, 2002, in conjunction with Code Amendment 02-010, the City Council directed staff to return to the City Council with a Code Amendment that would prohibit drive through restaurants in the downtown area, and

WHEREAS, the Code Amendment 02-015 has been noticed in a manner to permit the Planning Commission and City Council to prohibit drive through restaurants in the downtown area, but also provide for other drive through uses that are accessory to banks, coffee shops, pharmacies and other similar uses, and

WHEREAS, a resolution was adopted by the City Council approved a Negative Declaration status for this project, and a Negative Declaration was prepared for the proposed code amendment application in accordance with the California Environmental Quality Act, and

WHEREAS, at its meeting of November 26, 2002, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Recommend that the City Council adopt a Negative Declaration for the Code Amendment;
- d. Recommended that the City Council adopt the proposed ordinance;

WHEREAS, at its meeting of December 17, 2002, the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Considered the recommendation of the Planning Commission regarding this code amendment;
- c. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- d. Considered the content of the Environmental Initial Study and adopted a Negative Declaration status for the Code Amendment.

NOW, THEREFORE, BE IT KNOWN that the Paso Robles City Council, based upon the substantial evidence presented at the above referenced public hearing, including oral and written staff reports, finds as follows:

1. The above stated facts of this ordinance are true and correct.

2. This code amendment is consistent with the City's General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

SECTION 1. *Table 21.16.200.F.13 of the Municipal Code is hereby amended to read as shown on Exhibit A of this ordinance.*

SECTION 2. *Table 21.16.200.M of the Municipal Code is hereby amended to read as shown on Exhibit B of this ordinance.*

SECTION 3. *Amend Section 21.08 to add the following definitions:*

*Drive-Through Restaurants: Facilities where food may be purchased by motorists without leaving their vehicles.*

*Drive-Through Sales/Services: Facilities where services and minor sales may be obtained by motorists without leaving their vehicles. Includes drive-up bank teller windows, pharmacies, dry cleaners, coffee shops and other similar uses. Excludes drive through restaurants.*

SECTION 4. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 6. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 7. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on December 17, 2002, and passed and adopted by the City Council of the City of El Paso de Robles on the 7<sup>th</sup> day of January 2003 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Frank R. Mecham, Mayor

ATTEST:

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Sharilyn M. Ryan, Deputy City Clerk