



CITY COUNCIL AGENDA REPORT



DEPARTMENT: Community Development

MEETING DATE: March 13, 2001

PREPARED BY: Ili Lobaco, Assistant Planner

AGENDA LOCATION: D-1

TITLE: Amendment of Title 17 (Zoning) of the Monrovia Municipal Code Relating to Regulations Pertaining to Drive-Thru Business Operations; Introduction and First Reading of Ordinance No. 2001-05

OBJECTIVE: To require a Conditional Use Permit (CUP) for all properties with a drive-thru business if they are located within 100 feet of a residential zone. A CUP will require conditions that will lessen the impacts on neighboring residential properties.

BACKGROUND: Within the last year, drive-thru restaurants have become a concern because of their impact on adjacent residential uses. Currently, drive-thrus do not require a CUP and are permitted as long as the business is a permitted use. Although some drive-thru businesses will not require a conditional use permit because they will not affect residential uses, others that are located within 100 feet of residential uses have the potential to impact surrounding residences and should be evaluated through the CUP process.

The Planning Commission, at their February 14, 2001, meeting adopted Resolution No. 2001-02 requiring a CUP for any properties with businesses with drive-thru windows that are within 100 feet of residential zones.

A Negative Declaration has been prepared for the project in accordance with the California Environmental Quality Act. An Initial Study indicated this project would have no adverse impacts.

ANALYSIS: This Code amendment shall apply to all zones permitting drive-thru operations that are located within 100 feet of a residential zone.

At this time, businesses with drive-thru windows are permitted as long as the business is a permitted use. Some businesses with a drive-thru do not need a CUP because its location has no effect on residential uses. However, when a property with a drive-thru business is within 100 feet of residential uses, the potential impact on the surrounding residences should be evaluated through a CUP process, which requires a public hearing before the Planning Commission. The Planning Commission can review these requests so that conditions can be placed on the project in order to minimize impacts. Being able to mitigate potential impacts will assure that neighboring residents are not disturbed by the operation of any drive-thru business. Impacts can include noise related to vehicles, radios, traffic and order boxes. Light spillage onto residential properties is another impact.

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The City recently encountered concerns regarding drive-thru businesses when FatBurger converted a sit-down restaurant on Foothill Boulevard to a restaurant with a drive-thru window. Residents to the south were very concerned regarding the location and noise from the order box and the location of the drive-thru driveway that is directly adjacent to their properties. These concerns prompted staff to review and present to the Planning Commission the requirement that a Conditional Use Permit be required for drive-thru operations in order to control impacts on neighboring residential zones.

At the February 14, 2001 Planning Commission meeting, the Commission adopted Resolution No. 2001-02 recommending approval of Ordinance No. 2001-05 that amends several sections of the Zoning Ordinance. Amendments include requiring a Conditional Use Permit for all properties with a drive-thru business if they are located within 100 feet of a residential zone. Additionally, a conditional use permit shall be required for existing drive-thru businesses if:

- the establishment ceases to operate for a period of 30 days;
- there is a substantial change in mode or character of operation (such as increase in the square footage) of the business;
- the business wishes to increase the existing drive-thru hours of operation; and
- the existing drive-thru operation is determined to generate nuisance conditions as found in Title 8 (Health and Safety) and Chapter 17.32 (Performance Standards) of the Monrovia Municipal Code.

Additionally, Staff recommended that specific conditions be required including that:

- the drive-thru window must be on the same side as the driver's side of the car;
- outdoor speakers shall produce zero decibels at the property line of residential zones, and
- queuing length for vehicles (stacking) shall be established by the Planning Commission and is based on the location of the business, proximity to other uses and traffic circulation.

CONCLUSION: Staff believes that these amendments will address any potentially negative impacts of drive-thru operations on neighboring residential zones.

FISCAL IMPACT: There is no direct fiscal impact related to the proposed Ordinance.

RECOMMENDATION: The Planning Commission discussed the revision to Title 17 pertaining to drive-thru businesses at a January 10, 2001 Study Session and again at their meeting of February 14, 2001. After discussion, the Planning Commission unanimously approved Resolution No. 2001-02 recommending approval of Ordinance No. 2001-05 and the Negative Declaration.

COUNCIL ACTION REQUIRED: If the City Council concurs with this recommendation, following the Public Hearing, the following actions are appropriate:

1. Find that Ordinance No. 2001-05 will not have a significant effect on the environment and approve a Negative Declaration.
2. Introduce and read by title only Ordinance No. 2001-05 amending Title 17 (zoning) adding regulations pertaining to drive-thru business operations.

MOTION:

Introduce and read by title only Ordinance No. 2001-05 relating to regulations pertaining to drive-thru business operations.

RESOLUTION NO. 2001-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONROVIA RECOMMENDING APPROVAL TO THE CITY COUNCIL OF ORDINANCE 2001-05 REGARDING ADDING REGULATIONS PERTAINING TO DRIVE-THRU BUSINESS OPERATIONS AND AMENDING TITLE 17 (ZONING), CHAPTER 17.08 (PERMITTED USES) AND CHAPTER 17.44 (SPECIAL USES) OF THE MONROVIA MUNICIPAL CODE.

A. RECITALS

(i) The Planning Commission has initiated this project for Ordinance 2001-05 amending the Monrovia Municipal Code (hereinafter referred to as "Application").

(ii) Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, City Staff prepared an Initial Study of the potential environmental effects of the proposed Ordinance. Based upon the findings contained in that Study, City staff determined that there was no substantial evidence that the project could have a significant effect on the environment and a Negative Declaration was prepared. The Planning Commission has reviewed the Negative Declaration and finds that it was prepared in compliance with CEQA, that City staff has correctly concluded that the project will not have a potential significant effect on the environment, and that the findings contained therein represent the independent judgment of the Planning Commission. Based on these findings, the Planning Commission hereby recommends that the City Council adopt the Negative Declaration for this project.

(iii) On February 14, 2001, the Planning Commission of the City of Monrovia conducted a duly noticed public hearing on the Application, pursuant to Section 17.52.090 of the Monrovia Municipal Code and the applicable provisions of State law.

(iv) All legal prerequisites to the adoption of this Resolution have occurred.

B. RESOLUTION

NOW, THEREFORE, the Planning Commission of the City of Monrovia hereby finds, determines and resolves as follows:

1. The Planning Commission finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Ordinance 2001-05 is necessary to carry out General Plan goals and policies set forth in the Land Use Element and to guide and direct orderly development of the City and the respective neighborhoods.

3. Ordinance 2001-05 will not adversely affect the public health, safety, or welfare in that:

- a. It will not in and of itself result in any physical changes to the affected properties.
- b. It will result in a consistent land use pattern in the respective areas.

4. Based upon the findings and conclusions set forth above, the Planning Commission hereby recommends approval of Ordinance 2001-05 to the City Council.

The Secretary of the Planning Commission shall certify to the adoption of this Resolution:

PASSED, APPROVED, AND ADOPTED this 14th day of February 2001.

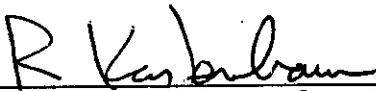
AYES: FAITH, GUERRA, HENDRIX, HOUGH, OWENS, THEALL
NOES: NONE
EXCUSED: NONE
ABSTAIN: NONE

BY:



Don Theall, Vice-Chair
Monrovia Planning Commission

ATTEST:



Robert Kastenbaum, Secretary
Monrovia Planning Commission

APPROVED AS TO FORM:

Roxanne M. Diaz, Assistant City Attorney
City of Monrovia

ORDINANCE 2001-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA AMENDING TITLE 17 (ZONING) OF THE MONROVIA MUNICIPAL CODE PERTAINING TO REGULATIONS FOR DRIVE-THRU BUSINESS OPERATIONS.

THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA does ordain as follows:

SECTION 1. On February 14, 2001, the Planning Commission of the City of Monrovia held a duly noticed public hearing to consider Ordinance 2001-05. Following the close of the public hearing, the Planning Commission adopted Resolution No. 2001-02 recommending approval of Ordinance 2001-05.

SECTION 2. On March 13, 2001, the City Council held a duly noticed public hearing on Ordinance 2001-05.

SECTION 3. Environmental Review.

A. Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, City Staff prepared an Initial Study of the potential environmental effects of the proposed "Municipal Code Amendment" (the "project"). Based upon the findings contained in that Study, City staff determined that there was no substantial evidence that the project could have a significant effect on the environment. City Staff thereafter prepared a Negative Declaration for the project and duly provided public notice of the public comment period and of the intent to adopt the Negative Declaration.

B. The City Council has reviewed the Negative Declaration and all comments received regarding the Negative Declaration and, based on the whole record before it, finds: (i) that the Negative Declaration was prepared in compliance with CEQA; and (ii) that there is no substantial evidence that the project will have a significant effect on the environment. The City Council further finds that the Negative Declaration reflects the independent judgment and analysis of the City Council. Based on these findings, the City Council hereby adopts the Negative Declaration prepared for the project.

C. The custodian of records for the Initial Study, Negative Declaration and all other material which constitute the record of proceedings upon which the City's Council's decision was based is the City Clerk of the City of Monrovia. Those documents are available for public review in the Office of the City Clerk located at 415 South Ivy Avenue, Monrovia, California 91016.

SECTION 4. Chapter 17.44 of Title 17 of the Monrovia Municipal Code is hereby amended by adding Section 17.44.053 to read as follows:

17.44.053 Drive-Thru Business Operations.

- A. **Purpose.** The purpose of this section is regulate and mitigate adverse conditions associated with establishments that provide a drive-thru window within 100 feet of residential zones for the sale of food or merchandise in order to prevent the undesirable community impacts of such uses.
- B. **Definition.** A "Drive-thru Business Operation" shall mean any place, facility or business that sells, serves or gives away food or beverages for on-site or off-site consumption or sells or gives away merchandise via a drive-thru window.
- C. **Conditional Use Permit Required.** Every Drive-thru Business Operation located within 100 feet of any residential zone as measured from all property lines of the subject property shall obtain a conditional use permit from the Planning Commission in accordance with the procedures set out in Sections 17.52.230 through 17.52.320 of this Code. In addition, the following shall also obtain a conditional use permit:
1. Notwithstanding Chapter 17.48 of this Code, any business with a drive-thru use established prior to the adoption of this Section that ceases to operate for a period of 30 days or more.
 2. Any business with a drive-thru use established prior to the adoption of this Section or permitted under this Section that requests a change in hours of operation of the drive-thru window.
 3. Any business with a drive-thru use established prior to the adoption of this Section or permitted under this Section that has a substantial change in mode or character of operation, such as an increase in the square footage of the building.
- D. **Location of Drive-Thru Window.** The drive-thru window shall be located on the same side as the driver's side of the car.
- E. **Conditions of Approval.** In granting a conditional use permit, the Planning Commission may impose such conditions on the permit, as the Commission deems necessary or proper to protect adjacent property and the public welfare from potential adverse impacts related

to the Drive Thru Business Operation. Such conditions may include, without limitation, conditions that regulate the decibel levels produced by the outdoor speakers and conditions that regulate the queuing length of vehicles utilizing the drive-thru window.

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 6. The City Clerk shall certify to the passage of this Ordinance and shall cause same to be published once in the Monrovia Weekly within fifteen (15) days after its passage, and said Ordinance shall become effective 30 days after its passage.

INTRODUCED this 13th day of March 2001.

SIGNED, APPROVED, AND ADOPTED this _____ day of _____ 2001 by the following vote:

AYES:
NOES:
ABSTAIN:
EXCUSED:

BY:

Mayor
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

Linda B. Proctor, CMC/AE, City Clerk
City of Monrovia

Michael G. Colantuono, City Attorney
City of Monrovia