



Atascadero City Council

Staff Report – Community Development Department

Informational Background Report

Drive-Throughs Overview of Zoning Issues and Impacts

RECOMMENDATION:

Council provide staff and Planning Commission with policy interpretation and direction on drive-through facilities.

DISCUSSION:

Background: Over the past few years, a number of applications have been submitted and approved for drive-through businesses throughout the City. Recent approvals have included the following drive-throughs:

- Carl's Jr. at the K-mart shopping center on El Camino Real and San Anselmo
- Walgreens drive-through pharmacy at the corner of El Camino Real and Curbaril
- Taco De Mexico drive-through restaurant on El Camino Real
- Drive-through restaurant at the West Front commercial site (not yet constructed)
- Drive-through bank at the corner of Morro Road and Curbaril (not yet constructed)
- Coffee Classics drive-through coffee shop on Morro Road
- Starbucks drive-through at Home Depot Center
- Tastee Freez drive-through restaurant on Montecito
- SESLOC bank drive-through at the Food-4-Less center on El Camino Real
- Carl's Jr. drive-through restaurant at the Vons shopping center on El Camino Real
- Rite Aid drive-through pharmacy at the corner of El Camino Real and Highway 41

The Planning Commission has expressed concern regarding the impacts of drive-throughs. The Planning Commission submitted a request for City Council to provide policy interpretation and direction on the processing of drive-through applications. The Commission also recommended the City Council conduct a public hearing in

conjunction with their development of a policy. This staff report is in response to Council request to review the issue.

ANALYSIS:

Definition of a Drive-through

There are many variations of what can be considered a drive-through. A traditional “drive-in” facility consists of a restaurant or theater in which people are served without leaving their cars. At a drive-in restaurant or drive-in movie, cars park and the drivers turn off their engines; the cars do not continue to idle. More recently, “curbside takeout” or “curbside pick-up” from casual dining restaurants has become one of the fastest growing areas in the restaurant industry. There does not seem to be any major site design or emission differences between “drive-in” or “curbside pick-up” restaurants and standard sit down restaurants. Additional drive-through lanes are not needed and air-pollution from idling cars is not increased. The question has also been raised, asking if full service gas stations and car washes are considered drive-throughs. Most sources agree that these are not classified as drive-throughs as they are a different type of use and have their own definitions in zoning ordinances.

For the purposes of this report, only the most typical version of a drive-through will be discussed. This includes facilities with one or more drive-through windows where customers are served without leaving their cars. Services may include restaurants, pharmacies, banking services, dry-cleaners, photo finishing services, convenience stores, coffee shops, or other types of uses which provide a drive-through service.

City of Atascadero Zoning Requirements for Drive-throughs

The Atascadero Municipal Code identifies eating and drinking places with drive-through facilities as a conditional use in most commercial zoning districts. Drive-throughs are not allowed in the **Downtown, Commercial Service, Residential, or Industrial** zoning districts. The Downtown zone, where drive-throughs are not permitted, extends along El Camino Real from Morro Road to Rosario Avenue. The existing downtown Jack-in-the-Box and Rabobank drive-throughs are considered legal non-conforming uses that may continue, even though they are inconsistent with the current zoning requirements. A Planning Commission approval of a Conditional Use Permit is required for drive-through in all other districts.

<u>Conditional Use Permit Required</u>	<u>Drive-Through Not Permitted</u>
<ul style="list-style-type: none"> ▪ Commercial Tourist (CT) ▪ Commercial Neighborhood (CN) ▪ Commercial Retail (CR) ▪ Commercial Professional (CP) ▪ Commercial Park (CPK) 	<ul style="list-style-type: none"> ▪ Downtown Zones (DT, DO) ▪ Commercial Service (CS) ▪ Residential Zones (RS, LSF, RSF, RMF) ▪ Industrial Zones (IP, I) ▪ Agriculture Zone (A) ▪ Recreation (R) & Special Recreation (LS) ▪ Public (P) ▪ Open Space (OS)

The Atascadero Municipal Code defines “*Eating and Drinking Places with Drive-Through Facilities*” as “*establishments which include points of service where customers are served prepared food without leaving their vehicles.*” However, the AMC does not provide specific definitions or zoning designations for drive-throughs such as pharmacies, banks, ATMS, convenience stores, coffee shops, or other types of uses which may provide a drive-through service. Therefore, it has been policy to group these other types of drive-through facilities in the same category as drive-through restaurants.

Section 9-4.122 of the Atascadero Municipal Code addresses the site design and development standards required for drive-through facilities. These standards apply to any type of drive-through, and are not limited to drive-through restaurants:

9-4.122 Drive-in and drive-through facilities.

This section establishes supplementary standards for retail trade or service uses which conduct business while customers remain in their vehicles. Such uses may include drive-through facilities that are accessory to a principal building where business is conducted indoors or that conduct all business by means of drive-through facilities. Such uses may include but are not limited to drive-in restaurants, fast food establishments with drive-through take-out windows, photo-finishing services, and bank services. These standards are not applicable to service stations (Section 9-6.164).

(a) Site Location Criteria. A site that contains drive-in or drive-through facilities shall be located on a collector or arterial, provided that access to drive-through facilities may be to a local street when properties across the local street from the exit driveway are not in a residential zone.

(b) On-site Traffic Control. Sites with drive-through facilities shall provide internal circulation and traffic control devices as follows:

(1) Lane Separation. An on-site circulation pattern shall be provided for drive-through traffic that separates such traffic from that of stopover customers. Separation may be by paint-striped lanes from the point of site access to the stacking area described in subdivision (2) of this subsection. such lanes are to be a minimum width of ten (10) feet.

(2) Stacking Area. An area shall be provided for cars waiting for drive-through service that is physically separated from other traffic circulation on the site. That stacking area shall accommodate a minimum of four (4) cars per drive-through window in addition to the car(s) receiving service. Separation of the stacking area from other traffic shall be by concrete or asphalt curbing on at least one side of the lane. Stacking areas shall be designed to preclude excessive overflow into public streets.

(3) Directional Signals. Signs shall be provided that indicate the entrance, exit and one-way path of drive-through lanes. (Ord. 68 § 9-4.122, 1983)

Drive-through Zoning Regulations in Other Cities

The City of San Luis Obispo does not allow new drive-through facilities to be constructed in any zoning district. The City's ban on drive-through restaurants was initiated by the Planning Commission, and approved by the City Council in 1982 (Ord.941-1.) The City conducted several public hearings during their review of the drive-through ordinance. Public testimony strongly favored eliminating drive-throughs, mainly based on environmental grounds. The Council decided that drive-through facilities, particularly drive-through restaurants, were an inappropriate use due to air-quality impacts of idling cars waiting for service, and due to the visual impact of the added paving needed to accommodate the drive-through lanes. The City's ban on drive-throughs applies to all uses. The only drive-throughs that currently exist in San Luis Obispo are those that existed prior to 1982. Any existing drive-throughs are considered legal, non-conforming uses. According to City staff, very few complaints have been submitted regarding the drive-through ban since its adoption over two decades ago.

The City of Paso Robles allows drive-through facilities based on location and zoning. In Paso Robles, drive-throughs are permitted within the Regional Commercial, Highway Commercial, Commercial/Light Industrial, Manufacturing, Planned Industrial, and Airport zoning districts, *provided that the site is at least 300 feet from the nearest residential zone*. If a drive-through is proposed within these zones, and meets the 300-foot minimum distance from the nearest residential zone, a building permit may be obtained for the drive-through without a requirement for Planning Commission approval. If the site is closer than 300 feet from the nearest residential zone, a Conditional Use Permit is required. Conditional Use Permits are always required for drive-throughs within the *General Commercial* zone. Drive-throughs are not permitted in the Residential, Neighborhood Commercial, Agricultural, or Office Professional zones.

Community Character

The issue of drive-through facilities has been met with a host of concerns relating to community character and quality of life issues such as noise, odor, compatibility with residential uses, and litter. The relationship between drive-throughs and the traditional pedestrian oriented streetscape design has also been questioned.

"Smart Growth" is a concept in city planning that encourages more compact, walkable communities that utilize pedestrian scale mixed use infill rather than automobile dependent land use patterns. The idea is to create a comfortable, safe, and attractive city-wide pedestrian network and high quality public realm. When streets are inviting to pedestrians, street life activities become more vital and in turn, contribute to the safety and economic health of local areas. Urban design guidelines which emphasize walkability, sense of place, connectivity, safety, livability and being transit supportive are primary goals of Smart Growth communities.

Smart Growth supporters often state that drive-throughs do not meet any of these “good planning” design guidelines. In addition, it has been stated that drive-throughs contribute to reduced physical activity levels because of the reliance on cars and are often not designed for non-vehicular traffic. Drive-through facilities have been said to reflect an over-emphasis on a “car-culture” which encourages the use of the automobile, rather than alternative forms of transportation such as walking, biking, and public transit. Shopping centers with clusters of drive-throughs around busy intersections and major roads designed for vehicular traffic, create environments which are unattractive for pedestrians, cyclists, or other non-motorized traffic.

Pedestrian oriented streetscapes and “walking communities” are a main aspect of smart growth principles. Site and building design that relates to and supports the public realm is encouraged. Some say the way drive-throughs are set back on a site, lacking sufficient built form at the street edge and visually dominated by cars, results in an uninviting pedestrian environment along the public street.

Architectural style is another aspect of community character which can be affected by drive-throughs. Many fast food chains tend to propose a franchise style architecture which does not usually relate to the local architecture and sense of place. Franchises typically have prototype designs which can create a generic looking streetscape. This type of prototype design is often associated with the idea of suburban sprawl. Drive-throughs have also been cited as an underutilized use of land. They require additional impermeable surface, creating concerns about lot coverage and drainage.

One option to limit the effects of drive-throughs on community character is to restrict drive-throughs in a designated area, rather than banning fast food or drive-throughs throughout the entire municipality. Many cities have adopted restrictions on drive-throughs in certain zoning districts in order to protect small businesses and preserve the distinctive character of certain neighborhood commercial districts. For example, in the City of Atascadero, drive-throughs are conditionally allowed in most commercial zoning districts, however, they are not allowed at all in the Downtown Commercial or Downtown Office districts. In developing the Downtown zone, it was decided that drive-throughs would not be a compatible use with the historical streetscape and traditional land use pattern which was originally established in the downtown area. This current limitation on drive-throughs in the Atascadero Municipal Code helps to promote Smart Growth principles and the idea of a walking community in the City’s historic downtown area.

Another option to combat the affects of drive-throughs on community charter is to implement additional site requirements and design guidelines. Key aspects of good site and building design can be incorporated to achieve a high quality public realm, a more inviting streetscape, and more walkable community.

Green House Gases and Emissions

When cars continue to idle as they move through drive-through lanes, additional emissions are produced from the vehicles. It is the Air Pollution Control District's (APCD) position that drive-throughs expand vehicle dependency, increase the use of fossil fuel, and are contrary to Smart Growth principles. The SLO County APCD promotes Smart Growth principles and development strategies that reduce vehicle dependency use and promote transit oriented design, thereby reducing emissions.

In 2006, the California State Legislature adopted Assembly Bill 32 (AB 32), the California Global Warming Solutions Act of 2006. AB 32 requires the California Air Resources Board (CARB), the State agency charged with regulating statewide air quality, to adopt rules and regulations that would achieve Greenhouse Gas (GHG) emissions equivalent to statewide levels in 1990 by 2020. Carbon dioxide (CO₂) is the most dominant greenhouse gas, making up approximately 84% of all greenhouse gases. Fossil fuel combustion is responsible for 97% of all CO₂ emissions worldwide. The APCD therefore concludes that reducing fossil fuel combustion is essential in order to meet the goals of AB 32.

In a letter dated March 6, 2008, San Luis Obispo County APCD responded to the Mitigated Negative Declaration circulated for the Rite Aid project at the corner of El Camino Real and Highway 41. The Rite Aid project included a drive-through pharmacy. APCD staff was able to calculate the expected operational GHG impact of the project. This analysis indicated that operational impacts resulting from the Rite Aid were likely to exceed the APCD's CEQA Tier I significance threshold value of 10 lbs/day for the criteria air pollutants nitrogen oxides (NO_x) and reactive organic gases (ROG); 21 lbs/day NO_x and 16 lbs/day ROG). The APCD recommended mitigation measures be incorporated if the drive-through was approved. Recommended mitigation included additional landscaping, incentives and opportunities for alternative transportation and trip reduction, energy efficiency measures, and idling limitations. Excerpts from the letter relating to the drive-through component of the project are included in Attachment 2 of this staff report.

Evidence shows that queuing and idling traffic is the worst possible operating condition for motor vehicles, and produces the worst type and amount of emissions. Drive-through queues, where cars are idling are a significant source of pollution because the engine is unable to burn fuel efficiently and emits high volumes of emissions. Fuel is also wasted from idling or slow-moving vehicles in drive-through service lanes. However, it is important to note that any type of idling, whether it is at a stop light, waiting for kids to come out of school with the air conditioning on, or warming up a car in the driveway in front of a home, all produce these excess emissions and add to GHG.

Some studies show that drive-through facilities are actually a small source of auto emissions compared to other sources. According to the restaurant industry, customers who use the drive-through are usually in the car already with multiple stops to make,

and, therefore, extra trips are not necessarily generated by the drive-through itself. It is typically the restaurant or the service that generates the car trip, not the drive-through option itself. Some sources state that more emissions can actually be found in parking lots than in the stacking lanes of drive-throughs, as a result of starting and stopping cars to get to multiple destinations.

There has been much debate and mixed data regarding the issue of idling verses turning off and restarting a car. Some studies show that walk-in customers, by stopping and starting their cars, actually produce more exhaust than their drive-through counterparts. Some reports state that the emissions produced by stopping and restarting a car when a customer goes in to get food, are actually equal to leaving a car idling for anywhere from 2-10 minutes in the drive through lane. Given this idea, air quality and emission impacts may not be that much different between a drive-through and a walk-in customer.

The State's Air Resource Board does not agree with this data. It is the APCD's standpoint that idling for several minutes will always produce more emissions. An article produced by the California Energy Commission suggests that if a car is idling more than 10 seconds, you should turn off the engine (see Attachment 3.) Many other sources agree with this timeframe. Based on the many studies and facts which have been produced regarding idling, most seem to say that there is two minute or less breaking point for idling verses turning off and restarting the engine.

It appears to staff that part of the confusion regarding this issue stems from the recent mandate to regulate GHG's. Historically APCD regulated air pollutants that caused smog and dust (nitrogen oxides (NOx), reactive organic gases (ROG), particulate matter (PM-10). Thanks to improved auto emission controls, new cars produce fewer pollutants when idling than when starting. This would tend to favor the argument that drive-through are not a significant air quality impact. However, GHG emissions are related to how long an engine is running. Any engine that burns fossil fuels, regardless of emissions control technology, will emit CO2 (carbon dioxide) as a byproduct. Therefore, the less an engine runs the less CO2 or GHG will be emitted. This would tend to favor the argument that drive-throughs contribute to increased GHG emissions.

Air Quality and Traffic

Air quality effects have been cited as a resulting impact of drive-through facilities, and therefore are not supported by the APCD. According to the APCD, mobile sources account for over 50% of San Luis Obispo County's air pollution. Research consistently shows the adverse effects of outdoor air pollution on human health, and evidence points to air pollution stemming from transportation as an important contributor.

In terms of poor air quality, of particular concern is the cumulative health effect of drive-through clusters when combined with busy intersections, shopping areas, and major roads. The clustering of drive-through facilities and other vehicle dominated environments combine to have a significant effect on air quality, making these areas

unattractive for pedestrians, cyclists or other non-motorized traffic. The net effect from an individual drive-through may be small compared to the air pollutants at a busy intersection, busy shopping center, or major highway interchange, but the cumulative effect of several sources may add up to be significant. Studies indicate that drive-through facilities can significantly affect local air quality for this reason.

Many sources claim that additional traffic is also produced by allowing drive-through facilities. However, fast food representatives state that drive-throughs serve motorists already traveling on nearby roads, and therefore do not add to neighborhoods traffic problems. Most customers use eateries while heading to another destination. Eliminating drive-throughs may not actually have any effect on the total amount of traffic on the City's streets.

It has also been cited that an increase of traffic accidents may be a result of an increase in drive-throughs. Many people who get their food at a drive-through will then eat it in the car. Critics often refer to this as "dashboard dining," and say that it results in a driver being distracted and placed at a higher risk for collisions and injury. In addition, pedestrian conflicts with vehicles in drive-through service lanes can become an issue.

Public Health

Health impacts are not typically considered in land use decisions because there is a lack of specific or direct evidence. However, many points have been brought up regarding potential effects of a drive-through culture, especially those health impacts related to fast food.

The scientific literature suggests a few main reasons why fast food likely contributes to obesity:

- Large, inexpensive portion sizes
- High fat content and energy density
- The frequency with which Americans, including children, consume it
- Increased time spent in cars and lack of physical activity

Drive-throughs are most often associated with fast food, and are therefore thought to encourage consumption of unhealthy food. Fast food is generally inexpensive food that is prepared and served quickly, and tends to be high in fat and low in nutritional value. Fast food franchises have been cited as offering menus filled with nutritionally deficient food and promoting 'super-sized' portions, in combination with a scarcity of healthy alternatives. Some argue that by providing the drive-through service, consumption of fast food is actually encouraged due to the convenience.

Obesity is a significant public health problem in the United States and has been described as an epidemic. One study calculated that in 2000 at least 365,000 deaths in the United States (about 15.2% of the total number of deaths) were attributable to poor

diet and physical inactivity, second only to tobacco use. While there are differences in the scientific findings over the estimated number of deaths attributable to obesity and being overweight, even the lowest estimates suggest that at least tens of thousands of people in the United States die from obesity each year. Individuals even moderately overweight are twice as likely to die prematurely than those of normal weight. (*Journal of the American College of Cardiology* 2003; 41(7):1227-1228.) For adults alone, overweight and obesity costs between \$98 billion to \$129 billion each year in national health care expenditures (Institute of Medicine of the National Academies. *Overview of the IOM's Childhood Obesity Prevention Study*. Fact Sheet, September 2004.) Nearly two-thirds of American adults aged 20 or older are either overweight or obese, with obesity being a risk factor for diseases such as diabetes, stroke, heart disease, high blood pressure, and certain cancers.

Fast food has been under increasing scrutiny for its role in the obesity epidemic. According to the American Journal of Public Health published in 2002 fast food establishments have significantly increased the size of their food portions over the past several decades to the extent that today's french fries, hamburgers, and sodas are 2 to 5 times larger than original sizes. Portions served at fast food restaurants are considerably larger than federal standard serving sizes. Additionally, fast foods tend to be high in fat content and have high calories per weight of the food.

The obesity epidemic, as it has been called, is even more concerning in children. It is estimated that about 9 million U.S. children over age 6 are overweight (Institute of Medicine of the National Academies. *Childhood Obesity in the United States: Facts and Figures*. Fact Sheet, September 2004.) Children who eat fast food compared to those who do not eat it consume more total fat, more saturated fat, more total carbohydrates, more added sugars, more sugar-sweetened drinks, less fluid milk, less fiber, less fruits, and less non-starchy vegetables. Children who become obese are more likely to be obese adults, and obesity in children may predispose those children to adult diseases.

Since weight-gain exploded in the US in the 1980s, the rate of overweight kids between 6 and 17 has more than doubled to well over 10%, according to sources cited by Smart Growth America. About 60% of overweight 5 to 10-year-old children, already have at least one risk factor for heart disease including elevated blood pressure or insulin levels. Today about 30% of newly diagnosed diabetic children have "adult-onset" diabetes, a disorder triggered by poor diet and sedentary lifestyle. Before 1990 it was rarely seen in people younger than 40. Additionally, more and more kids are being diagnosed with depression and other mood disorders that can be exacerbated by poor diet and lack of exercise.

It is important to note that while many municipalities throughout the country have instituted bans on drive-throughs or fast food, none of these City's have cited the issue of obesity as the main reason for the ban. It is a factor that is often discussed, however, difficult to qualify and support.

In the document “The Use of Zoning to Restrict Fast Food Outlets: A Potential Strategy to Combat Obesity” produced by The Center for Law and the Public’s Health at Johns Hopkins & Georgetown Universities, it is suggested that cities can use zoning regulations to restrict fast food purchase and consumption in a similar way that the sale of alcohol is restricted. Since the mid-1980s, many California cities have passed zoning laws that reduce alcohol availability by restricting the density and location of alcohol retailers. The article suggests that communities can combat the public health threat posed by fast food by issuing zoning laws that restrict where and how fast food outlets can operate. Studies suggest that zoning laws that limit individuals’ access to fast food and provide access to healthy food alternatives could help reduce the prevalence of obesity in the United States. Zoning ordinances that encourage exercise by creating “walking communities” or by restricting automobile use or parking in certain areas, can alter the balance between the consumption and expenditure of calories, thereby altering the prevalence of obesity.

On the other hand, many fast food restaurants have recently begun providing healthier alternatives as a response to consumer demand for more nutritional menu items. Many large fast food chains have started offering a variety of salads, sides of fruit, and other healthier options for both adults and children. With this current change in menu items, there seems to be more choices for consumers. The traditional idea of the fast food may begin to change if the public chooses to take advantage of these new healthier options.

It is also important to note that not all food drive-throughs sell the same type of product. Local restaurants have started providing drive-through service as well. For example, in Atascadero, the Taco De Mexico on El Camino Real and Coffee Classics on Morro Road are both locally owned and operated, and have recently been approved for new facilities with drive-through services. In these cases, the statistics regarding health impacts caused by traditional fast food franchises may not necessarily apply.

Accessibility and Consumer Convenience

Drive-throughs are often cited as having a large benefit for disabled customers, especially those in wheelchairs, and elderly people. Families with kids often say that it is a major convenience to not have to get out of the car. It is also argued that drive-through facilities provide a level of safety at night. The law requires that individuals with disabilities are entitled to equal access rights to public facilities. A safe accessibility route is always required from the sidewalk and from parking areas into the building. Drive-throughs, however, provide an additional convenience for those customers who have difficulty getting out of the car. Drive-through windows allow disabled people easier access to services such as banks, dry cleaners, pharmacies, convenient stores, and restaurants.

Advocates for disabled people and commercial builders have argued that some cities and counties use their land use regulations to limit access by disabled and aged people. In particular, they point to zoning and requirements for use permits that limit

drive-through banks, restaurants, cleaners, and pharmacies. Requests have been made in the past for the Legislature to curb local City's authority to deny drive-through businesses.

The State legislature has discussed the impacts that restrictions on drive-throughs would have for customers. Bills have been raised which would require City's to consider and address the impacts that banning drive-throughs would have on disabled customers elderly people. The State has discussed requiring local agencies to balance concerns for the general welfare with the needs of the disabled and aged community for services.

It has been suggested that cities and counties consider whether the denial or restriction of drive-through facilities will preclude or diminish access to the services that the facility provides to the disabled and aged community. This caution should apply not only to outright bans or denials of drive-throughs, but also to City's which require conditions of approval for which make the operation or construction of the drive-through no longer feasible because of unreasonable restrictions. The State has also discussed increasing the duties of local agencies for outreach to those who would be affected by drive-through restrictions.

The State has debated legislation which would limit City Council or County Board of Supervisors to certain reasons for denial, based on substantial evidence. The City would have to find that the drive-through facility would have an adverse impact on public health or safety that can't be feasibly mitigated or avoided. The drive-through facility must be denied because it fails to comply with a state or federal law, and there is no feasible method to comply. Denial or conditional approval of the drive-through should not adversely affect the access needs of the disabled or the aged of that community.

Groups which have supported State legislature on limiting local land use controls on drive-throughs include California Business Properties Association, California Bankers Association, California Chamber of Commerce, California Cleaners Association, California Coalition of United Cerebral Palsy Associations, California State Pipe Trades Council, Independent Living Services of Northern California, Older Women's League of California. Those which have opposed the State legislature include the California Chapter of the American Planning Association, and the League of California Cities, including the cities of Antioch, Carlsbad, Carson, Culver City, El Cajon, Lompoc, Los Angeles, Oceanside, Pacific Grove, Poway, Rancho Cucamonga, San Jose, Santa Barbara, Santa Clara, Signal Hill, and Stockton.

Legality of Drive-through Restrictions

There have been numerous court cases which have dealt with the legality of bans or denials of drive-throughs. The cases have shown that bans will be upheld if there is a rational relationship to a legitimate governmental purpose of promoting the public health, safety, morals, or general welfare. To be unconstitutional, the ordinance or

decision must be arbitrary, capricious, or not rationally related to a legitimate government purpose. The following cases are examples of these court cases:

- *Franchise Developers, Inc. v. City of Cincinnati*, 505 N.E.2d 966, 971 (Ohio 1987)
The City denied a permit to develop a Wendy's restaurant. The denial was based on an ordinance requiring franchise establishments in an overlay district to be "primarily pedestrian and not automobile oriented." The City's decision was upheld. The Supreme Court of Ohio found, among other things, that the City's "attempt to preserve and protect the character of certain neighborhoods" was a proper exercise of its zoning authority and that "there is a legitimate governmental interest in maintaining the aesthetics of the community and, as such, aesthetic considerations may be taken into account by the legislative body in enacting zoning legislation."
- *McDonald's Corporation v. Board of Trustees, Village of Elmsford*, (New York 1994)
The board denied a McDonald's a special permit to develop a drive-in restaurant within the Village of Elmsford in Westchester County. The restaurant was to be located 1,320 feet from an existing Wendy's drive-in restaurant; the zoning ordinance required 2,000 feet between such establishments. The decision was upheld and it was found that the complainant did not satisfactorily address issues related to traffic.
- *Bellas v. Planning Board of Weymouth*, No. 00-P-1837 (Massachusetts 2002)
Decision of planning board to deny a special permit for a drive-through window at a Dunkin Donuts facility was upheld because of the "board's concerns with traffic and pedestrian safety had a reasonable basis in fact."
- *Bess Eaton Donut Flour Company, Inc. v. Zoning Board of Review of Town of Westerly*, (Rhode Island 2000)
Denial of a special use permit for a drive-through window at Bess Eaton Donut's bake shop upheld because "there was sufficient, competent evidence in the record to support the dissenting member's denial of the special use permit based on incompatibility with the surrounding neighborhood and the threat of increased traffic congestion and hazard."

Economic Effects

Drive-throughs provide revenues to the City through direct sources such as tax revenues, and through indirect sources as well. Many national restaurant chains, pharmacies, and banks view drive-throughs as a necessary project component. Prohibition may discourage some projects which could therefore impact City revenues. Often times, chain stores will locate in a city in clusters, where restaurants and retailers will co-locate within shopping centers. Non-drive-through businesses may view a ban on drive-throughs as the City being unfriendly to businesses, and may not choose to locate within the City if drive-throughs are completely restricted.

Drive-throughs also bring income to the City indirectly. When people traveling on Highway 101 pull off the freeway to stop for fast food, they usually stop to fill up on gas, and possibly even look for lodging as well. These other commuter businesses may be impacted if there are no drive-throughs to attract these types of travelers into the City.

Based on these reasons, it appears that a ban on drive-through could have a negative economic effect on City revenues. Some City's like San Luis Obispo are able to get by without drive-throughs, and their economies are able to develop through other niches and more locally owned businesses. In these cases, it is necessary to have other revenue generators to replace any loss of business that would result from a ban in drive-throughs. It is staff's understanding, that the In-and-Out restaurant chose to locate in Atascadero rather than San Luis Obispo because of their ban on drive-through restaurants. The City of Atascadero has experienced negative economic impacts as new and existing retailers have chose to locate in Paso Robles. If Atascadero were to adopt a ban on drive-through business, this could encourage certain restaurants and retailers to choose Paso Robles rather than Atascadero.

General Plan Policies

The City of Atascadero's General Plan includes goals and policies for El Camino Real. El Camino Real and Morro Road tend to be the main location where drive-throughs have been proposed. General Plan policy LOC 3.1.11 states:

Transform the existing El Camino Real "strip" into a distinctive, attractive and efficient commercial, office and industrial park area which can provide for the long-term economic viability of the community.

Encourage retail businesses at efficient and attractive nodes along El Camino Real and Morro Road with mixed office and residential uses between those nodes.

Programs: (11) Amend and maintain the zoning ordinance to require Conditional use Permit approvals of bars, dance halls, night clubs, drive through restaurants, and service stations (all gasoline sales uses).

The General Plan encourages a mixed use office and residential uses in the General Commercial land use designation on El Camino Real and Morro Road, which may not be compatible with drive-through uses. Drive-through restaurants are currently conditional uses in most commercial zones, and they are not allowed in the downtown.

In addition to the policies cited above, the City of Atascadero's General Plan includes "Atascadero's Smart Growth Principles", which are intended to supplement the Goals of the General Plan and provide a solid foundation for the City with the most current principles of good community development. As stated previously in the discussion on community character, drive-throughs are generally not supported by Smart Growth groups and objectives. However, the City of Atascadero's Smart Growth Principles

have been specifically tailored to Atascadero's goals and ideals, and do not make mention of limiting drive-through facilities. Attachment 1 of this report includes the full list of Atascadero's Smart Growth Principles as identified in the General Plan.

Council Options

This staff report is being presented to the City Council for informational purposes only. The Planning Commission has requested policy interpretation and direction from the Council. However, no action is required to be taken, nor are any changes required to be made to the Zoning Ordinance. Alternatively, the Council may find that the current requirements of the Atascadero Municipal Code are not sufficient. The requirements regarding drive-throughs may be amended to allow or restrict drive-throughs in additional zones. It is also possible to amend the requirements of section AMC 9-4.122 to change the lot size, site design, or other requirements for drive-throughs, or the definitions identified in the zoning uses. Any changes to the code may result in existing drive-throughs becoming legal, non-conforming uses.

The following list includes some examples of requirements which other cities and regulators suggest increase regulations on drive-throughs.

- Require fast food outlets to locate a minimum distance from adjacent residential, as well as from schools, churches, institutions, and public recreation areas and other youth-oriented facilities;
- Limit the total number or per capita number of fast food outlets in a community;
- Limit the proximity of all fast food outlets to each other;
- Charge a fee to fast food outlets and use the proceeds to mitigate the impact of poor nutritional content (e.g., construct parks, fund after-school programs, or provide nutrition education)
- Consider a minimum lot size to ensure sufficient space on-site to incorporate measures to improve compatibility with adjacent uses. Minimum lot sizes for drive-throughs typically range from 10,000 sq. ft. to 30,000 sq. ft.;
- Increase minimum vehicle stacking requirements, and ensure that the stacking lane(s) do not interfere with parking or maneuvering aisles;
- Limit hours of operation;
- Shield glare from car lights;
- Establish standards and criteria for integrating operational elements, site design, and building design, with a focus on making a positive contribution to the surrounding context and pedestrian streetscape;
- Place drive-through activities away from the street to create good street edge definition;

- Require minimum landscape standards specific to drive-throughs to contribute to a comfortable and attractive public realm;
- Provide pedestrian amenity between the building and the street.

Conclusion

Staff has prepared an informational report on the impacts of drive-through facilities. Currently, the Atascadero Municipal Code identifies drive-through facilities as a conditional use in most commercial zoning districts. Drive-throughs are not allowed in the downtown zones, commercial service, residential, or industrial zoning districts.

The issue of drive-through facilities has been met with many concerns relating to community character and quality of life issues, including the impacts to pedestrian oriented streetscapes, franchise or prototype architecture, and the inconsistency with Smart Growth principles. The emissions produced by cars idling in line at drive-throughs contribute to green houses gases and poor air quality. Fast food restaurants are thought to contribute to obesity among children and adults by encouraging the consumption of large, inexpensive portion sizes and high fat content, high calorie foods.

Drive-throughs at banks, pharmacies, restaurants and other services do provide a large benefit of convenience for disabled and elderly customers. Drive-throughs also provide revenues to the City through direct sources such as tax revenues, and through indirect sources as well.

As a result of the numerous drive-through facility approvals in recent years, the Planning Commission has submitted a request for City Council to provide policy interpretation and direction on drive-through facilities. The City Council may chose to provide direction without any changes to the zoning ordinance, or modifications may be made as needed.

FISCAL IMPACT:

None.

Attachments:

- | | |
|---------------|--|
| Attachment 1: | City of Atascadero's Smart Growth Principles; General Plan Table I-2 |
| Attachment 2: | APCD Letter Regarding Rite Aid Drive-through Pharmacy; Dated March 6, 2008 |
| Attachment 3: | Article on Idling and Emissions; California Energy Commission |

Smart Growth

Aware that concern for environmental protection and resource conservation are becoming increasingly important issues at all levels, the City Council and Planning Commission jointly developed a set of "Smart Growth Principles". Smart Growth is a concept in city planning that encourages more compact, walkable communities that encourage pedestrian scale mixed use infill rather than automobile dependent subdivisions. The "Atascadero Smart Growth Principles" were intended to supplement the Goals of the previous General Plan and provide a solid foundation for the new General Plan that combined the communities previous 20-years of planning with the most current principles of good community development.

Table I-2: Atascadero's Smart Growth Principles

1. **Provide for well-planned new growth.** Recognize and preserve critical areas of open space, environmental habitats, and agricultural lands, while accommodating new growth in compact forms in areas designated for higher density, in a manner that encourages multi-modal transportation opportunities, integrates the new growth, and creates housing and job opportunities for people of all ages and income levels.
2. **Maximize use of existing infrastructure.** Accommodate additional growth by first focusing on the use and reuse of existing urbanized lands supplied with infrastructure, with an emphasis on reinvesting in the maintenance and revitalization of existing infrastructure.
3. **Support vibrant city centers.** Give preference to the redevelopment and reuse of Downtown Atascadero and appropriate nodes along existing transportation corridors through the encouragement and retention of mixed-use development, business vitality, housing opportunities for people of all income levels, and safe, reliable and efficient multi-modal transportation systems.
4. **Develop and support coordinated planning for regional impacts.** Coordinate planning with neighboring communities and the County so that there are agreed upon regional strategies and policies for dealing with the regional impacts of growth on transportation, housing, schools, air water, wastewater, solid waste, natural resources, agricultural lands, and open space.
5. **Support high quality education and school facilities.** Encourage and support high quality public education, neighborhood-accessible school facilities and adequate library services as a critical determinant in making our community attractive to families, maintaining a desirable and livable community, promoting life-long learning opportunities, enhancing economic development, and providing a work force qualified to meet the full range of job skills required in the future economy.
6. **Build strong communities.** Support and embrace the development of strong families and a socially and ethnically diverse community, by: (1) working to provide a balance of jobs and housing within the community; (2) reducing commute time; (3) promoting community involvement; (4) enhancing public safety; and (5) providing and supporting cultural and recreational opportunities.

7. **Emphasize joint-use of facilities.** Emphasize the joint-use of existing compatible public facilities operated by City, school, County, and state agencies, as well as take advantage of opportunities to form partnerships with private businesses and non-profit agencies to maximize the community benefit of existing public and private facilities.
8. **Support creative entrepreneurial efforts.** Support local endeavors to create new products, services and businesses that will expand the wealth and job opportunities for all social and economic levels.
9. **Encourage full community participation.** Foster an open and inclusive community dialogue and promote alliances and partnerships to meet community needs.
10. **Establish a secure local revenue base.** Create/support the establishment of a secure, balanced, and discretionary local revenue base necessary to provide the full range of needed services and quality land use decisions.

**Attachment 2: APCD Comments for Atascadero Rite-Aid Development (PLN 2008-1273)
Excerpts Pertaining to Drive-through Component; March 6, 2008
By Andy Mutziger, Air Quality Specialist, San Luis Obispo County APCD**

SPECIFIC COMMENTS

The SLO County APCD supports Smart Growth principles that reduce dependency on vehicle use and promote transit oriented design such as compact, mixed-use developments within Urban Reserve Lines. This type of development allows residents to work, shop, and recreate within the community that they live thus reducing vehicle dependency and emissions. Mobile sources account for over 50% of our county's air pollution. Drive-through facilities, such as the one proposed in the Rite-Aid development, expand vehicle dependency, increase the use of fossil fuel, and are contrary to Smart Growth principles. The APCD does not support drive-through facilities. Should this project move forward the following mitigation measures need to be implemented.

OPERATIONAL PHASE MITIGATION

APCD staff has determined the operational impacts of this development through the use of the URBEMIS2007 computer model, a tool for estimating vehicle travel, fuel use and the resulting emissions related to this project's land uses. The results of the model using conservative County average trip distances demonstrated that the operational impacts will likely exceed the APCD's CEQA Tier I significance threshold value of 10 lbs/day for the criteria air pollutants nitrogen oxides (NOx) and reactive organic gases (ROG); 21 lbs/day NOx and 16 lbs/day ROG).

As a result of this estimated threshold exceedence, this project must implement all applicable Standard Mitigation Measures and at least 10 Additional Mitigation Measures listed below. Should this project move forward, the APCD will consider the overall criteria pollutant air quality impacts from this project to have been reduced to a level of insignificance with the implementation of these mitigation measures. Other measures may be proposed as replacements by contacting the APCD's Planning Division at 781-5912.

Standard Measures (Include all standard mitigation measures below)

- Provide on-site bicycle parking. One bicycle parking space for every 10 car parking spaces is considered appropriate.
- Provide on-site eating, refrigeration and food vending facilities to reduce employee lunchtime trips.
- Provide preferential carpool and vanpool parking spaces.
- Provide shower and locker facilities to encourage employees to bike and/or walk to work, typically one shower and three lockers for every 25 employees.

Additional Measures (Include at least 10 of the following)

Site Design Mitigation for this Commercial Project

- Increase street shade tree planting.
- Increase shade tree planting in parking lots to reduce evaporative emissions from parked vehicles.
- Provide on-site banking (ATM) and postal services.
- Implement on-site circulation design elements in parking lots to reduce vehicle queuing and improve the pedestrian environment with designated walkways.
- Provide pedestrian signalization and signage to improve pedestrian safety.

Transportation Demand Mitigation

- If the project is located on an established transit route, improve public transit accessibility by providing a transit turnout with direct pedestrian access to the project or improve existing transit stop amenities.
- Provide incentives to employees to carpool/vanpool, take public transportation, telecommute, walk, bike, etc by implementing the Transportation Choices Program. The applicant should Contact SLO Regional Rideshare at 541-2277 to receive free consulting services on how to start and maintain a program.
- Provide Transportation Choices Program information centers on alternative transportation modes at the site (i.e. a transportation kiosk). Contact SLO Regional Rideshare for appropriate materials at 541-2277.
- Employ or appoint an Employee Transportation Coordinator.

Implement an APCD approved Trip Reduction Program.

- Increase the quality of existing bicycle routes/lanes or add bicycle routes/lanes which access the project.
- Implement compressed work schedules.
- Participate in an employee "flash pass" program, which provides free travel on transit buses.
- Include teleconferencing capabilities, such as web cams or satellite linkage, which will allow employees to attend meetings remotely without requiring them to travel out of the area.

Energy Efficiency Measures: Additional measures beyond those implemented to achieve the 20% beyond Title 24 standard requirement listed below.

- Shade tree planting along southern exposures of buildings to reduce summer cooling needs.
- Use roof material with a solar reflectance value meeting the EPA/DOE Energy Star® rating to reduce summer cooling needs.
- Use built-in energy efficient appliances, where applicable.
- Use double-paned windows.
- Use low energy parking lot and street lights (e.g. sodium).
- Use energy efficient interior lighting.
- Use low energy traffic signals (e.g. light emitting diode).
- Install door sweeps or weather stripping if more energy efficient doors and windows are not available.
- Install high efficiency or gas space heating.

- Replace diesel fleet vehicles with cleaner fueled low emission vehicles (e.g. delivery vehicles frequenting facility).

Operational Permit Requirements

Based on the information provided, we are unsure of the types of equipment that may be present at the site. Operational sources may require APCD permits. The following list is provided as a guide to equipment and operations that may have permitting requirements, but should not be viewed as exclusive. For a more detailed listing, refer to page A-5 in the District's CEQA Handbook.

- Portable generators and equipment with engines that are 50 hp or greater;
- Electrical generation plants or the use of standby generator;
- Boilers;
- IC Engines; and
- Cogeneration facilities.

To minimize potential delays, prior to the start of the project, please contact the District's Engineering Division at (805) 781-5912 for specific information regarding permitting requirements.

Truck Idling Limitations

To help reduce the emissions impact of diesel vehicles accessing the facility, the applicant shall implement a no idle zone for diesel driven delivery trucks (and the following shall be included as an APCD permit condition). Truck idling emissions shall be minimized to the maximum extent feasible using at least the following techniques:

- Each delivery vehicle's engine shall be shut off within two minutes of arrival in the area, unless the vehicle is actively maneuvering.
- The scheduling of deliveries shall be staggered to the extent feasible.
- Vehicle operators shall be made aware of the no idle zone, including a notification by letter to companies controlling out of the area drivers.
- Prominently lettered signs shall be posted in the receiving dock area to remind drivers to shut off their engines.

Greenhouse Gas Impacts and Mitigation

In 2006, the California State Legislature adopted AB 32, the California Global Warming Solutions Act of 2006. AB 32 requires the California Air Resources Board (CARB), the State agency charged with regulating statewide air quality, to adopt rules and regulations that would achieve greenhouse gas emissions equivalent to statewide levels in 1990 by 2020. Carbon dioxide (CO₂) is the most dominant greenhouse gas, making up approximately 84% of all greenhouse gases. Fossil fuel combustion is responsible for 97% of all CO₂ emissions worldwide; thus, reducing fossil fuel combustion is essential to solving this problem.

While California successfully passed Assembly Bill 32, California's Global Solutions Act of 2006, little guidance was provided to lead agencies regarding how to address greenhouse gas (GHG) impacts in the CEQA process. In the 2007 California legislative session, Senate Bill 97 was passed and required that the California Office of Planning and Research, by July 1, 2009, prepare and develop guidelines for the feasible mitigation of GHG emissions or the effects of

GHG emissions as required by CEQA, including, but not limited to, effects associated with transportation or energy consumption. As guidelines are not currently available, the APCD suggests that projects subject to CEQA should quantify project related GHG emissions and implement feasible mitigation.

The APCD staff considered the operational GHG impact of the proposed Rite-Aid development by running the URBEMIS2007. This analysis indicated that operational phase impacts of the greenhouse gas known as carbon dioxide (CO₂) will be approximately 7000 pounds per day or 1159 metric tons per year. In addition, the model underestimates emissions from drive-through because it does not account for the drive-through idling emissions. **The APCD recommends the implementation of feasible mitigation measures to minimize project related GHG impacts.**

- Post “no-idling” restriction notices at several locations in the drive-through queue;
- Make safe walking or bicycling connectivity to/from and on the site;
- Improve nearby transit amenities;
- Implement green building techniques such as:
 - Building positioning and engineering that eliminate or minimize the development’s active heating and cooling needs;
 - Implement solar systems to reduce energy needs;
 - Increase the building energy efficiency rating by 20% above what is required by Title 24 requirements.
 - Plant native shade trees along southern exposures of buildings to reduce summer cooling needs;
 - Plant native, drought resistant landscaping;
 - Use locally or nearby produced building materials;
 - Use renewable or reclaimed building materials;
 - Install outdoor electrical outlets to encourage the use of electric appliances and tools; and
 - Include teleconferencing capabilities, such as web cams or satellite linkage, which will allow employees to attend meetings remotely without requiring them to travel out of the area.

Attachment 3: Article on Idling and Emissions; California Energy Commission

California Energy Commission **Consumer Energy Center** Home Contact Us Site Map

Google Search

Entire Web Consumer Energy Center

[www.consumerenergycenter.org / myths / IDLING](http://www.consumerenergycenter.org/myths/IDLING)

SHOULD I SHUT OFF THE MOTOR WHEN I'M IDLING MY CAR

HERE'S THE RULE OF THUMB: If you're in a drive-through restaurant/business line or waiting for someone and you'll be parked and sitting for 10 seconds or longer... turn off your car's engine.

Why??

For every two minutes a car is idling, it uses about the same amount of fuel it takes to go about one mile. Research indicates that the average person idles their car five to 10 minutes a day. People usually idle their cars more in the winter than in the summer. But even in winter, you don't need to let your car sit and idle for five minutes to "warm it up" when 30 seconds will do just fine.

But you're not going anywhere. Idling gets ZERO miles per gallon.

The recommendation is: If you are going to be parked for more than 30 seconds, turn off the engine. Ten seconds of idling can use more fuel than turning off the engine and restarting it. And when you start your engine, don't step down on the accelerator, just simply turn the key to start.

An alternative to idling is to park your car, walk inside, do your business and then go back to your car.

Here are some other Myths associated with idling.

Myth #1: The engine should be warmed up before driving. Reality: Idling is not an effective way to warm up your vehicle, even in cold weather. The best way to do this is to drive the vehicle. With today's modern engines, you need no more than 30 seconds of idling on winter days before driving away.

Myth #2: Idling is good for your engine. Reality: Excessive idling can actually damage your engine components, including cylinders, spark plugs, and exhaust systems. Fuel is only partially combusted when idling because an engine does not operate at its peak temperature. This leads to the build up of fuel residues on cylinder walls that can damage engine components and increase fuel consumption.

Myth #3: Shutting off and restarting your vehicle is hard on the engine and uses more gas than if you leave it running. Reality: Frequent restarting has little impact on engine components like the battery and the starter motor. Component wear caused by restarting the engine is estimated to add \$10 per year to the cost of driving, money that will likely be recovered several times over in fuel savings from reduced idling. The bottom line is that more than ten seconds of idling uses more fuel than restarting the engine.

Energy Myths Main Page

Did You Know?

Idling is linked to increases in asthma, allergies, heart and lung disease and cancer.

Idling gets ZERO miles per gallon.

Idling for 1 hour burns nearly 1 gallon of gasoline.

| Home | Glossary | Contact Us | Privacy Policy | Conditions of Use |

Copyright 2006 California Energy Commission

