



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

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Long Beach, CA 90802

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March 21, 2019

CHAIR AND PLANNING COMMISSIONERS

City of Long Beach
California

RECOMMENDATION:

Recommend that the City Council:

Accept Negative Declaration ND 03-19 and approve Zoning Code Amendment (ZCA19-001) to amend Title 21 of the Long Beach Municipal Code (Zoning Ordinance) to: 1) create a definition for drive-through facilities; 2) update the commercial and industrial zones permitted use tables with the new drive-through facility use; 3) require a Conditional Use Permit (CUP) for new fast food drive-throughs and expansions in industrial zones and in all Planned Development districts where they are permitted for consistency with the existing review process in the commercial zones that allow this use; and 4) provide new required findings specific to the drive-through use. (Citywide)

APPLICANT: City of Long Beach, Development Services Department
333 West Ocean Boulevard, 5th Floor
Long Beach, CA 90802
(Application No. 1902-09)

BACKGROUND

Currently drive-through establishments are permitted throughout the City, by Conditional Use Permit in most commercial zones and as a matter of right in limited industrial zones (IL, IM, IG, and IP), if the drive-through establishment is located more than 300' from the nearest residential district. Citywide, the number of existing fast food drive-through establishments totals 116. Within the last five years, a total of 16 drive-through applications have been approved; two are pending; and one has been denied. The number of recent fast food drive-through applications have prompted concerns by members of the public and the Planning Commission due to potential impacts on pedestrian safety, traffic and queuing, noise, light, and air pollution, and aesthetics associated with the use. In addition to impacts associated with fast food drive-throughs, the City has seen an uptick in fast food drive-through applications.

Existing regulations governing drive-through facilities, last amended in 1999, lack sufficient design standards for drive-throughs to minimize impacts on pedestrians, safety, and welfare of the community. Furthermore, when such establishments are constructed in areas offering a variety of transit opportunities, they may impede the City's ability to meet its housing and economic development goals over time. In meeting housing and

economic development goals, new drive-through establishments are prohibited in the Downtown (PD-30), Midtown (SP-1) and SEASP (SP-2) area, and the draft Land Use Element approved by City Council in 2018 includes expanded rail, bus, and other mixed-use corridors to further meet the City's jobs and housing needs. Lastly, the code amendments support specific strategies in the 2013 Mobility Element that emphasize the creation of features to support active living (MOP IM-5); ensuring that all planning processes identify where pedestrian, bike, and transit improvements can be made (MOP IM-30); and continuing to implement pedestrian streetscape designs (MOP IM-33).

In response to concerns raised, staff has been directed to improve the design review process, develop design guidelines, and update the City's regulations to reflect community feedback and General Plan policy direction. New development standards and policies will enable the City to assist developers, architects, landscape architects, urban designers and professional planners in making informed decisions when developing site plans. Additionally, by establishing clear criteria and development standards, City staff can provide consistent review and address development impacts, operational elements, site and built design elements, and safety. The goal is to ensure the health, safety and welfare of residents and visitors by requiring drive-through designs that can be beneficial additions to everyone, not just automobile users.

DISCUSSION

While fast food drive-through applications have been the source of concerns in the City recently, the proposed Zoning Code Amendments would apply to all drive-through facilities because the negative impacts associated with this use are linked to the drive-through nature of the use.

The proposed Zoning Code Amendment generally consists of the following:

- 1) create a definition for drive-through facilities;
- 2) update the commercial and industrial zones permitted use tables with the new drive-through facility definition;
- 3) require a Conditional Use Permit (CUP) for new fast food drive-throughs and expansions in industrial zones and in all Planned Development districts for consistency with the existing review process in the commercial zones that allow this use;
- 4) make reference to the design guidelines that will be developed at a later time and will supplement the drive-through regulations in the zoning code;
- 5) include a provision to address the demolition and/or rebuilding of a drive-through facility approved under a previous CUP and subsequently, made legally nonconforming with the Project; and
- 6) provide new required findings specific to the drive-through use.

Because these proposed changes are within the Zoning Ordinance, the Planning Commission must review and act upon this matter. The Planning Commission's action will be forwarded to the City Council as a recommendation.

Definitions

Currently, the zoning code does not specifically define fast food drive-through facilities, but references ‘fast-food restaurant’ instead. To classify the various drive-through uses, staff proposes adding a new comprehensive definition for drive-through facilities. Creating a robust definition for drive-through facilities would help strengthen the link between the use and the proposed regulations and provide standards to address drive-through facilities not related to fast food i.e. banks, pharmacies, dry cleaners, mortuaries. The commercial and industrial permitted use tables would be updated to reflect the addition of drive-through facilities.

Zoning and Review Processes for Drive-Through Facilities

Zoning districts allow a certain intensity of development, at a certain scale for the physical characteristics of the area. These characteristics are described in the purpose and intent of each zone. Currently, a conditional use permit (CUP), which is reviewed by the Planning Commission and conditioned to mitigate potential negative impacts, is required for fast food drive-through facilities in the commercial zones that allow this use¹. In the industrial zones (and in Planned Development District 7²), this use is currently allowed by-right—without Planning Commission review—unless the facility is within 300’ of the nearest residential district, in which case a CUP is required. Lastly, the City does not have design standards or required findings related to the negative impacts associated with drive-throughs.

To be consistent with the CUP review process in the commercial zones that allow drive-through facilities, staff proposes that CUPs also be required for drive-throughs in the industrial zones and in PD-7. This change would result in requiring CUPs for all new drive-through facilities and expansions.

Findings

Currently, the Municipal Code does not contain required findings related to the negative impacts that drive-through establishments can have. In contrast, the proposed findings provide a comprehensive set of criteria which can be used to evaluate drive-through uses. The required findings that staff proposes relate to consideration of the potential negative impacts associated with drive-throughs, design, suitability, opportunity cost, buffers for sensitive uses, compatibility of a proposed drive-through facility to surrounding existing land uses, as well as overconcentration in an area.

The proposed set of criteria will prevent new drive-through establishments on major mixed-use corridors better suited for uses that further the City’s housing and economic development goals; provide the Planning Commission with more tools to deny drive-through establishments proposed in inappropriate locations; guide drive-through establishments to locations that are appropriate, such as in shopping centers and

¹ Fast food drive-throughs are allowed in all commercial zones except for in the CNP, CNR, and CS zones.

² Drive-through facilities are also allowed in PD-25, but with approval of a CUP.

freeway-adjacent lots; and ultimately, will result in better future drive-through establishments because new drive-through establishments or expansions would be held to a more stringent set of standards than what currently exists. A drive-through establishment would need to meet the set of criteria outlined in the findings in order for the Planning Commission to grant the CUP necessary for the drive-through establishment to be built. When the new CUP findings can affirmatively be made, it will ensure that the use is appropriate to both the site and surroundings. Staff proposes that the findings be located in the Special Standards Section of the code (Section 21.45.130), which is referenced in the commercial and industrial use tables.

Lastly, the findings reference conformance to design guidelines, which staff will be developing over the next few months. In situations where the proposed findings can be made for approval of a drive-through establishment, the design guidelines would be used to help applicants design drive-through facilities that further minimize impacts on pedestrians, safety, and the welfare of the community.

A complete set of the proposed changes to the Zoning Code are included in a “red-lined” format as Exhibit A to this report.

PUBLIC HEARING NOTICE

Notice of this public hearing was published in the Long Beach Press-Telegram on March 7, 2019, in accordance with provisions of the Zoning Ordinance. Additionally, written notices were sent to the California Coastal Commission and all City libraries except for the Main Library, which is currently closed for construction, and three public hearing notices were posted in public places throughout the City. Lastly, an email blast regarding the proposed zoning code amendments was sent through the City’s LinkLB system to interested parties subscribed to LinkLB. Public comments received by staff are included in Exhibit B.

STAKEHOLDER MEETINGS

Despite the quick turnaround in producing changes to the existing drive-through regulations to address community concerns, the City employed extensive outreach efforts. The City contacted individuals who have either expressed an interest in drive-through establishments or have provided public comment regarding a fast food drive-through applicant, as well as previous fast food drive-through applicants and individuals who have worked in the capacity of an architect or agent associated with a drive-through application. The City also met with representatives from the Coalition for Clean Air (CCA) and the South Coast Air Quality Management District (SCAQMD) for a discussion on impacts associated with drive-through facilities, as well as tools to regulate and mitigate the impacts associated with the use. Lastly, the City sent an email blast to interested parties subscribed to the City’s notification system (LinkLB).

Collectively, these individuals formed the stakeholder focus groups. The City conducted two stakeholder meetings to discuss the proposed zoning code amendments. At the February 19 stakeholder meeting with industry representatives, the participants provided

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information on their past experience with drive-through projects in different cities and how lighting, air quality, and noise regulations were met. The industry representatives also emphasized the importance of having a clear regulatory process that provides a certain level of certainty for developers. On February 25, the City met with approximately 20 members of the public and community organizations. During that meeting, the community members expressed the following concerns regarding the drive-through use:

- Air quality issues associated with drive-throughs and specific impacts to people with asthma;
- Making the City safer for pedestrians and wheelchair accessible;
- Prioritization and equitable distribution of healthy food;
- “Food swamps”: areas with a concentration of unhealthy food choices exist in parts of Long Beach and more drive-throughs are not desired;
- Concerns about displacement of small businesses due to a drive-through use;
- Existing concentration of fast food drive-throughs, such as around Willow Street and Long Beach Boulevard and impacts specifically in that area associated with trash, sound, high traffic, and circulation issues;
- Not enough trash receptacles serving the drive-throughs in the area leads to customers throwing trash in nearby apartment complexes, backing up trash collection;
- The drive-through facilities should never be exempt from the California Environmental Quality Act (CEQA); and
- Impacts to students and children of fast food drive-throughs near schools.

Staff presented the proposed code amendments to the community members and received the following feedback:

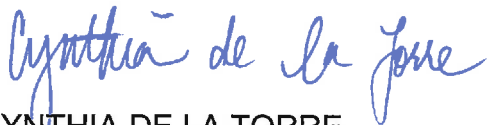
- Consider amortization of existing drive-through facilities;
- Consider air quality impacts from particulate matter emissions associated with fast food operations;
- Consider increasing the 500’ radius for prohibition of a drive-through located within 500’ of a school or park to ¼ a mile (1,320 feet) due to a study that shows increased child obesity near fast food facilities;
- In evaluating if there is an existing overconcentration of drive-throughs, consider the City’s Health Needs Assessment or CalEnviroscreen to determine if a high concentration of health issues exist in an area;
- Define ‘sensitive receptor’;
- In the finding related to suitability of a new drive-through at a location, define suitable. Would this finding consider displacement of a local, neighborhood use?; and
- In terms of the design guidelines staff will be producing, consider walk-up windows instead of open store at night to address employee safety concerns, as well as wheelchair accessibility when creating raised pedestrian walkways.

Staff is also coordinating with the City’s Department of Health and Human Services on producing scientific research regarding health impacts of drive-through facilities.

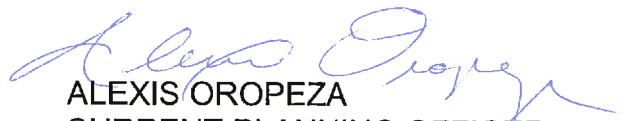
ENVIRONMENTAL REVIEW

In accordance with the California Environmental Quality Act (CEQA), a Negative Declaration was prepared for the Zoning Code Amendment for Drive-Through Use Regulations. The Negative Declaration was posted on the City's website and has been circulated for a 30-day review period, between February 19 and March 21, 2019. As of the date of preparation of this report, no comments have been received. The Negative Declaration is available as an attachment to this report (Exhibit C – Negative Declaration ND 03-19).

Respectfully submitted,



CYNTHIA DE LA TORRE
PROJECT PLANNER



ALEXIS OROPEZA
CURRENT PLANNING OFFICER



CHRISTOPHER KOONTZ, AICP
PLANNING BUREAU MANAGER



LINDA F. TATUM, FAICP
DIRECTOR OF DEVELOPMENT SERVICES

LFT:CK:AO:CDLT

Attachments: Exhibit A – Draft Code Amendment with Redlines
 Exhibit B – Public Comments
 Exhibit C – Negative Declaration ND 03-19