



TOWN OF APPLE VALLEY PLANNING COMMISSION

Get a Slice of the Apple.

Staff Report

AGENDA DATE:	May 02, 2012 – Workshop Item
CASE NUMBER:	Mobile Food Facility/ Hot Food Trucks
APPLICANT:	Town of Apple Valley
PROPOSAL:	Workshop - Discussion of development standards and permitting requirements for Mobile Food Facility/Hot Food Trucks within the Town of Apple Valley, which will result in a future proposed Municipal and Development Code Amendment(s).
LOCATION:	Town-wide (Commercial Designations/Construction Sites)
EXISTING GENERAL PLAN DESIGNATIONS:	Commercial Land Use Designations/Town-wide.
EXISTING ZONING:	Commercial Zoning Designations/Town-wide.
ENVIRONMENTAL DETERMINATION:	Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
PROJECT PLANNER:	Mr. Douglas Fenn, Senior Planner
RECOMMENDATION:	Discuss the information presented and provide direction to staff.

BACKGROUND AND REGULATORY FRAMEWOK

At the March 13, 2012 Town Council meeting, the Council initiated a Development Code Amendment to review Mobile Food Facility/Hot Food Truck vendors. The Council's direction is that the Planning Commission conduct a workshop to include the community stakeholders and a recommendation by the Planning Commission that will be returned to the Council for consideration.

The research identifies and analyzes state and local regulations related to the operation of mobile food vendors in the County of San Bernardino, the Town, and in other jurisdictions.

State

The State of California has instituted comprehensive regulations to maintain health and sanitation standards in retail food facilities in the State. This regulatory scheme is included in the Health and Safety Code (Section 113700), and is commonly referred to as the California Retail Food Code, frequently abbreviated as "Cal Code." The Environmental Health Services Division (DEHS) of the Department of Public Health is authorized to interpret, apply and enforce the Cal Code throughout the County, including within incorporated cities.

The Cal Code identifies three basic categories of retail food facilities as follows, and health and safety regulations vary according to category:

- 1 .Permanent facilities such as restaurants and markets;
2. Temporary food facilities operating at a fixed location for community events; and,
- 3 Mobile Food Facilities such as vehicles or carts.

San Bernardino County

The State relies on local enforcement agencies (County) which have the primary responsibility for enforcement of the Cal Code. The Environmental Health Services Division (DEHS) of the Department of Public Health is the lead agency to interpret, apply and enforce the Cal Code throughout the County, including within incorporated cities and towns

Per Section 113831, any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail is a Mobile Food Facility (MFFs). Catering trucks (from which pre-packaged food is sold) and hot food trucks (on which the food is prepared and then sold) are both MFFs. Cal Code Chapter 10 (Section(s) 114294-114327) outlines the applicable health and safety requirements, certifications and approvals for MFFs and the authority for the permitting and enforcement of these regulations, which is delegated to the local agencies by the State. Section 114315, located within the chapter related to MFFs, includes the following provisions:

- (a) A food facility shall be operated within 200 feet travel distance of an approved and readily available toilet and hand washing facility, or as otherwise approved by the enforcement agency, to ensure that restroom facilities are available to facility employees whenever the mobile food facility is stopped conducting business for more than a one-hour period.
- (b) This section does not limit the authority of a local governing body to adopt, by ordinance or resolution, additional requirements for the public safety, including reasonable time, place, and manner restrictions pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code.
- (c) Section 114315 of the Health and Safety Code or any other provision of law, a local authority may, by ordinance or resolution, adopt additional requirements for

the public safety regulating the type of vending and the time, place, and manner of vending from vehicles upon any street.

The County DEHS has historically and continuously recommended prohibiting the operation of MFFs based on the potential health risks. San Bernardino, along with Riverside, are believed to be the only counties in the state that prohibit MFFs operations. Per the direction from the Board of Supervisors, the County Land Use Services Department (DLUS) was instructed to conduct workshops and study the possibility of permitting/licensing the use of MMFs throughout the County. The County staff contacted all the cities within San Bernardino County regarding the Board's direction. The overwhelming response was that the cities were waiting to see if the Board of Supervisors would permit the licensing of MMFs. In addition to modifying the DHES regulations the DLUS staff has prepared recommendations for the land-use regulations in unincorporated County areas. It will be up to the local cities to determine land use and operational regulations for each individual city. This month, it is anticipated that the Board of Supervisors will approve the modifications to the County DEHS regulations, which will allow these trucks to be permitted within the County of San Bernardino.

To regulate the land use aspect of food trucks, County staff proposed to amend the Development Code to allow Food Truck Events. Food Truck Events will be categorized into two distinct types Major and Minor. A Major Event is an event where one or more MFFs, other than a Community Event, as defined by DEHS, operate at a designated single location, to sell or provide food to individuals. A Major Event will have an anticipated attendance of over 500 persons, and will be limited to four events per parcel per calendar year.

A Minor Event is an event where one or more mobile food facilities, other than a Community Event, as defined by DEHS, operate at a designated single location in either a single one-day event, or a recurring event on more than one day, not to exceed 365 consecutive days, to sell or provide food to individuals. A Minor Event will have an anticipated attendance of 500 persons or less.

The key land use considerations which would be reviewed as part of the permit application include:

- Food truck locations
- Trash disposal
- Restroom locations
- Structure and tent locations
- Lighting
- Fire prevention
- Other food concessions or vendors
- Site access and parking

Other issues which may be considered in the application process, depending on the size of the event, include the provision of emergency medical facilities, monitoring of noise/music levels, compliance with alcoholic beverage license requirements (if applicable), provision of law enforcement services and emergency evacuation procedures.

Town

The County Planning Commission on April 5, 2012 approved and recommended to the Board of Supervisors that the DLUS amend the Development Code to allow MFFs vehicles (via a Food Truck Permit) to operate at designated, and/or organized events at pre-approved fixed locations

only. The Planning Commission recommended that the Board approve the ordinance, which is scheduled to be heard before the Board on May 8, 2012.

Currently, the Town does not permit itinerant mobile vendors. Section 5.02.260 of the Town Municipal Code prohibits such business that perform: "...peddling, hawking, or street vending is prohibited, and a business license shall not be issued, therefore." And, per Section 5.02.010 amended defines an itinerant vendor as:

"Itinerant Vendor" means hawker, vendor, or other person who, without appointment, goes from house to house, place to place, or in or along the streets of the Town selling and making immediate delivery, or offering for sale and immediate delivery, any goods, wares, merchandise, or anything of value.

However, the Town allows mobile vendors permitted as part of an approved special event for a private user, or community function. For example, MFFs (food concessions) are allowed according to Development Code Section 9.21 per approval of a Special Events Permit (SEP). Even the Town has had MFFs as part of its 4th July, celebration and the Fall Festival events. Below are portions of Development Code Section 9.21 that could be used as a guide to develop permitting criteria for Town approved MFFs:

9.21 Special Events Permits (SEP)

9.21.020 APPLICABILITY Special events provisions shall apply to...uses subject to obtaining a special event permit shall include temporary outdoor activities held outside a building or an established permanent facility that is designed, constructed and approved for such activities, which has the required facilities to accommodate the activities, including but not limited to parking, sanitary and health facilities and water. Such activities shall be classified as follows:

A. Major Special Events Permits. Temporary outdoor activities with more than one thousand(1,000) people at one time

B. Minor Special Events Permits. Temporary outdoor activities with between two hundred (200) and one thousand (1,000) people at one time.

9.21.040 APPLICATION

A. Application and Submittal Requirements. Application for a Special Event Permit shall be filed with the Planning Division on a form prescribed by the Director and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Director in order to review and take action on the application.

9.21.050 APPROVAL, FREQUENCY AND TIME LIMITATIONS Permits for special events regulated by this Chapter shall not be granted for more than (4) four events per calendar year and shall not exceed fourteen consecutive days per event. However, events may be consecutive or combined. Events located at public or private recreational facilities may exceed four (4)events per calendar year.

9.21.060 STANDARDS OF OPERATION

Special events as described in this Chapter shall be conducted in a manner that will not adversely impact the public peace, health, safety or welfare. ...Conditions may be required to demonstrate compliance with the following requirements. There are adequate provisions on the proposed site to accommodate adequate law enforcement and/or security protection, adequate ingress/egress and adequate parking, including provisions for special traffic guards or signals; consideration of the impositions upon adjacent properties and the

local communities; noise impact(s); topographical and ecological considerations and consideration of alternative sites; electrical illumination requirements; inclement weather contingencies; water facilities; **food concessions**; sanitation facilities; medical/first aid facilities; overnight camping; bonding and insurance requirements; fire protection...

The Town could come up with a permitting procedure for MFFs in addition to the SEP process that may authorize MFFs either on an annual basis at a permanent commercial location, or at certain locations on a temporary basis (see discussion options below).

DISCUSSION OF OPTIONS FOR MOBILE FOOD FACILITY VEHICLE

In order to facilitate a productive and organized discussion, staff has provided a list of items for the Planning Commission's consideration. In general, three options identified relative to the Town's current regulation Town are outlined below followed by detailed descriptions, impacts and summaries for each option:

1. Maintain the status quo and continue to allow concessions as a part of a Special Event function and special outdoor public events.
2. Amend the Town's Municipal and Development Code(s) to establish a new definition/category of MFFs.
3. Amend the existing to permit Municipal and Development Code(s) to establish a new category of MFFs to operate in the Town.

Option 1: Maintain Existing Resolution

Description: Concessions would continue to be permitted to operate as temporary food facilities when part of an approved Special Event and locally-approved community event.

Impacts: No impacts beyond those currently experienced.

Summary: This option would maintain the status quo. There would be no increase in public access to MMFs. The operation of MFFs as temporary food facilities provides ample opportunity to conduct field inspections and address any health and safety issues.

Option 2: Amend Existing Resolution to Establish a New Category of "MFFs in Commercial Establishments"

Description: Amend the existing Municipal and Development Codes to establish the category of "MFFs" and a system for allowing to set-up a daily, operation in Commercial designated parking lot area. Such food vehicle would need approval from the property owner and must obtain an annual permit from the Town Planning Division.

Impacts: In the past, the County placed health and safety limitations on MFFs operations that have been in place for many decades and, as a result, MFFs in the cities, towns and unincorporated communities have been restricted at the county level, without the need for additional local regulation. However, with direction from the Board of Supervisors to reconsider the existing health and safety restrictions and with the current action form, the County's Planning Commission finding that the County Board of Supervisor lift, the MFFs restriction within the County, the Town would need to consider whether and how to regulate the operation of MFFs within our jurisdiction. Because of the recent action by the County, the DEHS has developed procedures for implementation of state (Cal Code) and county health and safety regulations for MFFs operations including

The Town and DEHS would permit the MFFs for operate in Commercial designated areas and develop procedures for implementation of state (Cal Code) and county health and safety regulations for MFFs operations including:

1. Fee structure and procedures for permit applications including investigation, expiration, revocation, appeal and letter grading system;
2. Equipment requirements and plan review;
3. Inspection, complaint investigation and enforcement protocols;
4. Signage requirements, display of permit, and display of letter grade; and,
5. Waste and litter requirements.

In addition to the health and safety protocols outlined above, there are several key aspects of hot food truck operations that the County and its cities and towns would likely want to consider including the following:

1. General operational parameters such as:
 - a. Operation on private vs. public/commercial vs. residential property
 - b. Hours of operation
 - c. Noise restrictions
 - d. Density (i.e., number of trucks on-site)
2. Traffic regulations to address issues such as operation in public right-of-way vs. private property, parking and congestion.
3. Business licenses, permits and/or taxes.
4. Coordinated complaint response and enforcement of regulations for MFFs truck operations (DEHS) would remain responsible for investigation and resolution of health related issues; local jurisdictions would be responsible for investigation and resolution of alleged violation of local safety regulations).

Summary: This option would allow increased public access to MFFs locations while providing ample opportunity to conduct field inspections by the County and Town to address any health and safety issues.

Option 3: Amend Existing Resolution to Permit MFFs Vehicles at Construction Sites.

Description: Amend the existing Town resolution to allow MFFs to operate in the Town on annual basis at construction sites (residential, commercial and industrial). This would be in concert with the current action of the County lifting its current health and safety restriction and allow for the permitted operation of MFFs throughout "designated" areas in the Town.

Impacts: In the past, the countywide health and safety limitations on MFFs operations have been in place for many decades and, as a result, MFFs in the cities, towns and unincorporated communities have been restricted at the county level, without the need for additional local regulation. However, with direction from the Board of Supervisors to reconsider the existing health and safety restrictions and with the current action form, the County's Planning Commission finding that the County Board of Supervisor lift, the MFFs restriction within the County, the Town would need to consider whether and how to regulate the operation of MFFs within our jurisdiction. Because of the recent action by the County, the DEHS has developed procedures for implementation of state (Cal Code) and county health and safety regulations for MFFs operation including:

1. Fee structure and procedures for permit applications, including investigation, expiration, revocation, appeal and letter grading system;

2. Equipment requirements and plan review;
3. Inspection, complaint investigation and enforcement protocols;
4. Signage requirements, display of permit, and display of letter grade; and,
5. Waste and litter requirements.

As referenced in Option 2, there are several key aspects of MFFs operations that the Town would likely want to consider, including the following:

1. General operational parameters such as:
 - a. Operation on private vs. public/commercial vs. residential property
 - b. Hours of operation
 - c. Noise restrictions
 - d. Density (i.e., number of trucks on-site)
2. Traffic regulations to address issues such as operation in public right-of-way vs. private property, parking and congestion.
3. Business licenses, permits and/or taxes.
4. Coordinated complaint response and enforcement of regulations for MFFs truck operations (DEHS) would remain responsible for investigation and resolution of health related issues; local jurisdictions would be responsible for investigation and resolution of alleged violation of local safety regulations).

Summary: This option would allow increased temporary public access to MFFs allowing construction employees from leaving the job site. This option would be in concert with the policies of the Climate Action Plan because fewer vehicles will be on the streets during breaks and the lunch hour.

RECOMMENDATION

Following receipt of staff comments, any public comments and discussion by the Commission, it is recommended that the Commission, by consensus, provide guidance to staff to create appropriate language to be prepared within a draft Planning Commission Resolution. Staff will then schedule a public hearing and return to the Planning Commission with a resolution for consideration. After Planning Commission adoption of the Resolution, it would then be forwarded to the Council for consideration and final action.

Prepared By:

Reviewed By:

Douglas Fenn
Senior Planner

Lori Lamson
Community Development Director

ATTACHMENTS:

1. Letter of Support - Where's The Fire

Where's The Fire

18182 Hwy 18 Ste. 105
Apple Valley, CA 92307
(760)983-1414
WTFpza@gmail.com

April 9, 2012

Attn: Doug Fenn
Planning Division
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, California 92307

Dear Mr. Fenn:

Where's The Fire is a local mobile food unit serving gourmet wood-fired pizza and sandwiches. We have been anticipating this moment, in hopes that the San Bernardino planning commission and local cities would approve the operation of food trucks.

We believe that food trucks enhance a community and add a sense of belonging. We are innovative and offer a product that is new, fresh and different. Food truck festivals have become so popular because people love the concept, creativity, and interaction they get with the trucks. The connection between the chefs on the truck and their customers is direct, creating an experience you can't find at restaurant and an experience you'll see customers crave.

Listed below are a few reasons why food trucks can enhance our community:

- * Increase in job opportunities
- * The food is innovative
- * The food is affordable
- * The food is convenient
- * The experience is personable
- * 5 star food available locally
- * Increase in supporting local vendors and farmers
- * On site catering compared to drop off catering is available

This letter is to show our support for the upcoming decision on allowing food trucks to operate within the Town of Apple Valley. We look forward to growing with our community and continuing to make it a colorful and supportive environment.

Sincerely,


Jamie Knider
Co-Owner & Operator

RECEIVED

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Community Development