



TOWN OF APPLE VALLEY PLANNING COMMISSION

Get a Slice of the Apple.

Staff Report

AGENDA DATE:	June 6, 2012
CASE NUMBER:	Mobile Food Facility/Hot Food Trucks - Workshop
APPLICANT:	Town of Apple Valley
PROPOSAL:	Workshop - Discussion of development standards and permitting requirements for Facility/Hot Food Truck 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 May 2, 2012 Planning Commission meeting the Commission conducted a workshop along with community stakeholders. Staff reviewed the State legislation and County history and pending approval for Mobile Food Facilities/Facility (MFF) as described below:

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.

San Bernardino County

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. 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 MFF, 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 MFF 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.

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 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.

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 MFF 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 June 5, 2012, and if approved the second reading will be on June 19, 2012.

Several types of MFF uses are described below which include, use of MFF on public rights-of-way, stationary MFF use in commercial establishments and MFF use at construction sites, including ice cream truck use in residential areas. These scenarios have been prepared for discussion purposes and can be modified by the Commission at its discretion.

A. MFF Use in Public Right-of-Ways.

As previously mentioned, the County Planning Commission is recommending restricting the use of MFF in public rights-of-way. The Commission should consider whether these facilities are appropriate for operating on a public right-of-way. If considered appropriate, the operational criteria described in section "B" below, should be determined for MFF on a public rights-of way. The Commission may restrict MFF use in public rights-of-way to a particular area of Town, such as the Village. The boundaries of this area would have to be clearly described in the regulations.

B. Establish a Stationary "MFF in Commercial Establishments

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

The Town and DEHS would permit the MFF to operate in Commercial designated areas and develop procedures for implementation of state (Cal Code) and county health and safety regulations for MFF 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 criteria of MFF's operations as follows:

1. General operational parameters such as:
 - a. Operate on commercial property and must have the approval of the property owner and/or designee;
 - b. Submit a Site Plan depicting MFF location;
 - c. Operate during normal business hours (24-7 hour operation is not permitted);
 - d. Facility must not exceed noise levels permissible within commercial zoning district;
 - e. One MFF truck per permit;
 - f. Facility shall be operated within 200 feet travel distance of an approved and readily available toilet and hand washing facility;
 - g. Sight lighting must provide for safety purposes and spot lights are not permitted;
 - h. Medical/first aid facilities to be provide;
 - i. Restoration of any damaged landscaping;

- j. MFF vendor shall not operate the vehicle as a drive-in window business;
 - k. Only a menu board sign on the vehicle is permitted, and no portable or other display signs and similar like advertising is permissible;
 - l. No outdoor seating and tables shall be provided on site;
 - m. The MFF must have a Town approved annual sticker visibly displayed prominently on the vehicle;
 - n. No sale of alcohol is permissible;
 - o. No MFF is permitted on a vacant unimproved lot; and
 - p. More than one (1) MFF vendor is permissible on the same property as long as there is at least seventy-five (75) between the mobile vendors.
2. Traffic regulations issues such as operation in parking and congestion.
 - a. No ingress/egress shall be blocked or impeded;
 - b. No onsite required parking for the existing primary existing use or uses shall be used for the MFF operation; and
 - c. At least five (5) parking spaces adjacent to the MFF must be provided for customers.
 3. Business licenses, permits and/or taxes.
 - a. The MFF vendors shall comply with all local, county and state retail sales tax regulation, including food and beverage tax regulations;
 - b. An annual Mobile Food Vehicle and Business License permits shall be obtained from the Town and
 - c. Permitting license can be revoked per violation of the Municipal and Development Codes and other related County health and safety Code issues.
 4. Coordinated complaint response and enforcement of regulations for MFF 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).

C. MFF Vehicles (Itinerate) at Construction Sites and Ice Cream Trucks.

Amend the existing Town resolution to allow MFF (Itinerate) to operate in the Town on annual basis at "construction sites" (residential, commercial and industrial). This also includes "ice cream trucks routes" in residential areas.

As referenced in "B" above, there are several key aspects of MFF operations that the Town would likely want to consider regarding mobile, including the following:

1. General operational parameters such as:
 - a. Operate in residential, commercial, office professional, and industrial construction areas and ice cream trucks in residential;
 - b. Obtain application permits for itinerate (MFF);
 - c. Operate during normal business hours (24-7 hour operation is not permitted);
 - d. Facility must not exceed noise levels permissible within commercial zoning district;
 - e. One MFF truck per permit;
 - f. Medical/first aid facilities to be provide;
 - g. Restoration of any damaged landscaping;
 - h. MFF vendor shall not operate the vehicle as a drive-in window business;
 - i. Only a menu board sign on the vehicle is permitted, and no portable or other display signs and similar like advertising is permissible;
 - j. No outdoor seating and tables shall be provided on site;

- k. The MFF must have a Town approved annual sticker visibly displayed prominently on the vehicle; and
- l. No sale of alcohol is permissible
2. Traffic regulations issues such as operation in parking and congestion.
 - a. No ingress/egress shall be blocked or impeded; and
 - b. No ice cream truck shall park in the travel lane on any residential street to conduct business.
3. Business licenses, permits and/or taxes.
 - a. The MFF vendors shall comply with all local, county and state retail sales tax regulation, including food and beverage tax regulations;
 - b. An annual Mobile Food Vehicle and Business License permits shall be obtained from the Town; and
 - c. Permitting license can be revoked per violation of the Municipal and Development Codes and other related County health and safety Code issues.
4. Coordinated complaint response and enforcement of regulations for MFF 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).

RECOMMENDATION

Following receipt of staff comments, any public comments and discussion by the Commission, it is recommended that the Commission, by consensus, review the issues identified in the report and provide guidance to staff for the language preparation of a draft Planning Commission Resolution. Staff will schedule a public hearing and return to the Planning Commission with a draft Resolution for consideration. After Planning Commission adoption of the Resolution, it would 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. Minutes from the May 5, 2012 Planning Commission Workshop.
2. May 5, 2012 Planning Commission Workshop Staff Report.

MINUTES

TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting May 2, 2012

CALL TO ORDER

At 6:02 p.m., the Workshop and Regular Meeting of the Planning Commission of the Town of Apple Valley for May 2, 2012, was called to order by Chairman Cusack.

ROLL CALL

PLANNING COMMISSION

Roll call was taken with the following members present: Commissioner David Hernandez, Commissioner Mark Shoup, Commissioner B.R. "Bob" Tinsley, Vice-Chairman Jason Lamoreaux, and Chairman Larry Cusack.

STAFF PRESENT

Lori Lamson, Acting Director of Community Development; Doug Fenn, Senior Planner; Carol Miller, Senior Planner; Pam Cupp, Associate Planner; Haviva Shane, Town Attorney; and Debra Thomas, Planning Commission Secretary.

PLEDGE OF ALLEGIANCE

Commissioner Tinsley led the Pledge of Allegiance.

1. APPROVAL OF MINUTES

- A. Minutes for the Regular Meeting of April 18, 2012.

Motion by Commissioner Hernandez, seconded by Vice-Chairman Lamoreaux, to approve the Minutes for the Regular Meeting of April 18, 2012.

Motion carried by the following vote: Ayes: Commissioner Hernandez, Commissioner Shoup, Vice-Chairman Lamoreaux and Chairman Cusack. Noes: None. Absent: None. Abstain: Commissioner Tinsley.

2. WORKSHOP ITEM

The Planning Commission discussed and took public testimony pertaining to the development standards and permitting requirements for Mobile Food Facilities/Hot Food Trucks within the Town of Apple Valley ("Town").

Mr. Doug Fenn, Senior Planner, presented the staff report as filed by the Planning Division.

Lengthy discussion ensued between the members of the Planning Commission presenting their opinions, questions, concerns and options on whether to allow Mobile Food Facilities (MFF) within the Town.

PUBLIC COMMENTS

Ms. Janice Moore, Apple Valley Chamber of Commerce, conveyed the Chamber's support for Mobile Food Facilities. Ms. Moore provided some guidelines she believed the Town should consider that would assist in the success of Mobile Food Facilities as well as licensing and permitting.

Mr. Vincent Ajanwachuku, Apple Valley, explained his support for Mobile Food Facilities and believed that a decision to allow them would be beneficial to employees of small businesses allowing them more options with a limited time for lunch.

Mr. Chet Hitt, Apple Valley, believed allowing Mobile Food Facilities to be a good idea but questioned whether problems would arise if a Mobile Food Facility were parked in front of a brick and mortar restaurant. He explained his biggest concern was the issue of sanitation and wanted to know how that would be addressed.

Ms. Lori Lamson, Acting Director of Community Development, explained that San Bernardino County Environmental Health Code requirements would address the issue of sanitation.

Mr. Hitt asked whether a property owner could lease a spot in front of its business to a Mobile Food Facility.

Ms. Lamson responded that the Town would require seeing a copy of the agreement between an owner and a Mobile Food Facility, but the Town would not regulate the monetary exchange.

Further discussion ensued between the members of the Planning Commission regarding how the Town can regulate Mobile Food Facility permits, location, parking and aesthetics.

Mr. James Krider, Apple Valley, informed the Planning Commission that he owned a Mobile Food Facility and his office is located next door to St. Mary's Medical Center. He asked if he parked his truck behind his office, could he serve the local walking community without being required to have designated parking spaces.

Chairman Cusack stated that the Town's Code requires businesses to have designated parking spaces and there would be a parking requirement, however, that would need to be discussed further and placed in the upcoming draft resolution.

MOTION:

The Commission, by consensus, provided guidance to assist staff in creating a draft Planning Commission Resolution with appropriate language. Staff will then return to the Planning Commission with draft language for consideration. After adoption of a Resolution by the Planning Commission, it would be forwarded to the Town Council for consideration and final action.

PUBLIC HEARING ITEMS

3. Conditional Use Permit No. 2012-02 and Deviation Permit No. 2012-02. A request for approval of a Conditional Use Permit to construct a seventy (70) foot tall wireless telecommunication monopole designed as a pine tree.

Applicant: RealCom Associates, LLC for Verizon Wireless

Location: The project site is located on the Apple Valley Municipal Golf Course on Fairways #13 and #14, APN: 3112-111-41.

Chairman Cusack opened the public hearing at 6:56 p.m.

Ms. Carol Miller, Senior Planner, presented the staff report as filed by the Planning Division.

Staff notified property owners within 1500 feet of the facility and received one letter of opposition.

Staff would request one minor change to Condition of Approval No. P8 for consistency with the Development Code. The condition reads, "obsolete and abandon" and 30 days for removal of abandoned facilities. The Code does not have the word "obsolete" and it does not require 30 days for removal; it requires 90 days for removal of abandoned facilities.

Commissioner Tinsley indicated that a few years back the Planning Commission approved a tower in this same location. Requirements were in place to build a structure that would contain three (3) users so there was no need to build more than one.

Mr. James Rogers, RealCom Associates, representative for Verizon Wireless informed the Commission that Verizon Wireless agreed to the Conditions of Approval as set forth in the staff report and as it related to Condition of Approval No. P8.

Mr. Rogers explained to the Commission that the location's coverage area and capacity is very poor. The hills block signals, which create these issues. The applicant's engineers projected increased customer usage over the next two (2) years and the way those cell phones would be used needs to be addressed at this juncture.

Mr. Rogers explained that the golf course would be the best location for the project to move forward. It meets the Town's requirements for most of the area. A cluster of 30 to 35-foot pine trees would be planted to create a cluster that would help the tower blend in with its surroundings.

As far as the number of visits by Applicant's personnel, once the facility is up and operating, they come in once a month for testing. There are two (2) access points and the most favored access point is the existing utility easement off Rincon, which is also the Town's preferred location.

An emergency generator would be placed at the site and enclosed by a masonry wall. If the power goes out it would only operate as needed. The Town's standard is sixty (60) DBA at the property line. The decibel output of the emergency generator is well below the Town's standard. To correct an earlier statement made by staff, the facility is designed and would be constructed to accommodate three (3) carriers, not two (2).

Commissioner Shoup wanted to know if the property owner, who submitted the letter in opposition to the facility, is from the house next door to the proposed site and wanted to confirm that it was farther away than 500 feet from the location.

Vice-Chairman Lamoreaux asked how long construction would take.

Mr. Rogers responded four (4) to six (6) weeks.

Chairman Cusack closed the public hearing at 7:37 p.m.

MOTION:

Motion by Commissioner Tinsley, seconded by Commissioner Hernandez, including the change to Conditions of Approval No. P8 that the Planning Commission move to:

1. Determine that the proposed project does not have a negative impact upon the environment and adopt a negative Declaration pursuant to the guidelines to implement the California Environmental Quality Act (CEQA) for Conditional Use Permit No. 2012-02 and Deviation Permit No. 2012-02.
2. Find the facts presented in the staff report support the required Findings for approval and adopt the Findings for Conditional Use Permit No. 2012-02 and Deviation Permit No. 2012-02.
3. Approve Conditional Use Permit No. 2012-02 and Deviation Permit No. 2012-02, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Determination.

ROLL CALL VOTE:

Ayes: Commissioner Hernandez
Commissioner Shoup
Commissioner Tinsley
Vice-Chairman Lamoreaux
Chairman Cusack

Noes: None

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote

4. **General Plan Amendment 2012-001.** A proposed Amendment to the Town of Apple Valley General Plan Circulation Element modifying figure II-6 "General Plan Street System".

Applicant: Town of Apple Valley

Location: Town of Apple Valley, Township 6N, Range 4W, Sections 24, 25, 26 and 35, generally located 0.5 miles north of the Ohna Road, south of Stoddard Wells Road, between Apple Valley Road and Interstate 15.

Chairman Cusack opened the public hearing at 7:39 p.m.

Ms. Pam Cupp, Associate Planner, presented the staff report as filed by the Planning Division.

Mr. Brad Miller, Town Engineer, explained how the freeway would be developed, as well as which portions of the freeway would actually be a limited access expressway. He also indicated

the Town of Apple Valley would have opportunities for funding and explained to the members of the Planning Commission the project's tentative timeline.

Chairman Cusack closed the public hearing at 7:51 p.m.

MOTION:

Motion by Chairman Tinsley, seconded by Vice-Chairman Lamoreaux, that the Planning Commission move to:

1. Determine that the proposed General Plan Amendment will not have a significant effect on the environment.
2. Adopt the Negative Declaration Finding for GPA 2012-001, finding that based overall record before the Planning Commission, including the Initial Study and any comments received, there is no substantial evidence that the project will have a significant effect on the environment and that the Negative Declaration reflects the Town's independent judgment and analysis.
3. Find that the facts presented in the staff report support the required Findings for approval and adopt those Findings.
4. Adopt Planning Commission Resolution No. 2012-03 recommending approval of GPA 2012-001.

ROLL CALL VOTE:

Ayes: Commissioner Hernandez
Commissioner Shoup
Commissioner Tinsley
Vice-Chairman Lamoreaux
Chairman Cusack

Noes: None

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote

PUBLIC COMMENTS

None.

PLANNING COMMISSION COMMENTS

None.

STAFF COMMENTS

None.

OTHER BUSINESS

Mojave Water Agency Water Update – Kirby Brill, General Manager, Mojave Water Agency.

ADJOURNMENT

Motion by Chairman Cusack, seconded by Vice-Chairman Lamoreaux, and unanimously carried to adjourn the meeting of the Planning Commission at 8:31 p.m. to the Regular Meeting on June 6, 2012 meeting.

Respectfully Submitted by:

Debra Thomas
Planning Commission Secretary

Approved by:

Chairman Larry Cusack



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 MFF. Catering trucks (from which pre-packaged food is sold) and hot food trucks (on which the food is prepared and then sold) are both MFF. Cal Code Chapter 10 (Section(s) 114294-114327) outlines the applicable health and safety requirements, certifications and approvals for MFF 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 MFF, 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 MFF based on the potential health risks. San Bernardino, along with Riverside, is believed to be the only counties in the state that prohibit MFF 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 MFF, 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 MFF 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 businesses 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, MFF (food concessions) are allowed according to Development Code Section 9.21 per approval of a Special Events Permit (SEP). Even the Town has had MFF 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 MFF:

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 one1,000 people at one time

B. Minor Special Events Permits. Temporary outdoor activities with between 200 and 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 MFF in addition to the SEP process that may authorize MFF 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 MFF.
3. Amend the existing to permit Municipal and Development Code(s) to establish a new category of MFF 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 MFF 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:

6. Fee structure and procedures for permit applications including investigation, expiration, revocation, appeal and letter grading system;
7. Equipment requirements and plan review;
8. Inspection, complaint investigation and enforcement protocols;
9. Signage requirements, display of permit, and display of letter grade; and,
10. 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:

5. 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)
6. Traffic regulations to address issues such as operation in public right-of-way vs. private property, parking and congestion.
7. Business licenses, permits and/or taxes.
8. 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

APR 12 2012

Community Development