



Town Council Agenda Report

Date: January 12, 2021 Item No. 13

To: Honorable Mayor and Town Council

Subject: DEVELOPMENT CODE AMENDMENT NO. 2020-003 IS A REQUEST TO MODIFY TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE AS IT RELATES TO DESIGN AND OPERATING STANDARDS OF DRIVE-THRU RESTAURANTS

From: Douglas Robertson, Town Manager

Submitted by: Pam Cupp, Senior Planner
Planning Department

Budgeted Item: Yes No N/A

RECOMMENDED ACTION

- A. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from environmental review because 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.
- B. **Find** the facts presented within the staff report, including the attached Planning Commission Resolution No. 2020-009 adopted November 4, 2020, support the required Findings for approval of the proposed Development Code Amendment and adopt the Findings.
- C. **Move** to waive the reading of Ordinance No. 543 in its entirety and read by title only.
- D. **Introduce** Ordinance No. 543 approving Development Code Amendment No. 2020-003; and
- E. **Direct** staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

SUMMARY

At the May 1, 2019 joint meeting of the Town Council and Planning Commission, staff was directed by the Council to work with the Planning Commission to review the current drive-thru regulations to make sure the Town remains current with existing trends and to recommend modifications that could create flexibility to the minimum standards. On November 4, 2020, the Planning Commission reviewed the modifications proposed under Development Code Amendment No. 2020-003. Upon presentation of the staff report and subsequent Commission discussion, Planning Commission Resolution No. 2020-009 was unanimously approved recommending the Town Council modify the Development Code.

ANALYSIS

As requested by Council, the Planning Commission has completed its review of Development Code Section 9.36.140 "Drive-In/Drive-Thru Restaurants". With the exception of menu board size requirements, little has changed since 1988. Development of drive-thru restaurants occurs mostly within master planned shopping centers; however, there have been a couple of drive-thru projects located within strip centers or as a stand-alone, single use developed over the past several years. Challenges that face most drive-thru restaurants include having available space for vehicle stacking together with vehicular and pedestrian level circulation. Stand-alone and strip center drive-thru uses typically face additional challenges relating to proximity to residential uses and zoning designations. Based upon the existing regulations, flexibility to the site development standards may only be granted through the approval of a Variance.

Upon presentation of the staff report, and subsequent Planning Commission discussion, the Commission is recommending following:

- Increase drive-thru restaurant lane stacking from six (6) to eight (8) vehicles. This recommendation is based upon overflow occurring with many of the Town's existing drive-thru lanes even prior to the pandemic.
- Enhanced site development standards addressing pedestrian and parking circulation, drive-thru lanes and menu board placement.
- It is recommended that the standards identified within Figure "9.36.140-A Drive in-Drive Thru Restaurants" become textual standards and the figure removed.
- Allow deviations and reductions to the development standards to be approved by the review authority when it can be demonstrated through documentation and mitigation that the requested reduction will not result in a negative impact upon the site or surrounding land uses.

The modifications recommended by the Planning Commission are shown below with strike-thru/bold underlined.

9.36.140 - Drive-In/Drive-Thru Restaurants

- A. **Purpose.** The purpose of this Section is to ensure that drive-in, drive-thru, delivery, and take-out restaurants do not impose adverse impacts on adjacent uses or the surrounding neighborhood because of customer or employee parking demand, traffic

generation, noise, light, or litter, consistent with the goals, objectives and policies of the General Plan.

- B. **Applicability.** All drive-in, drive-thru, delivery and take-out restaurants are subject to approval as shown in Table 9.35.030-A, Permitted Uses, and shall comply with the development standards of the zoning district in which they are located, this Section and Chapter 9.37, *Commercial and Office Districts Design Standards*, of this Code. **Deviations and reductions to these provisions may be considered by the review authority when it can be demonstrated through documentation and mitigation that the requested reduction will not result in a negative impact upon the site or surrounding land uses.**

C. **Development Standards**

1. **Site Design.**

- a. Drive-thru areas shall be designed to be an integral part of the main structure.
- b. Building placement shall be oriented to screen the drive-thru lane whenever possible.**
- c. Drive-thru windows are discouraged on any building elevation directly facing a public right-of-way.**
- d. Drive-thru facilities shall be provided screening and protection from sun and wind through the use of special landscape and architectural treatments such as berming and bays around the drive aisle.
- e. Drive thru lanes shall be setback a minimum of twenty-five (25) feet from the ultimate curb face.

2. **Drive-in/Drive-thru Stacking Space.** Stacking lanes for drive-in/drive-thru customers shall be of sufficient length to hold at least **eight (8)** ~~six (6)~~ vehicles (twenty [20]-foot in length per vehicle), **with four (4) located behind the order point and four (4) between the order point and pick-up window.** ~~for a minimal total staking length of 120 feet.~~ On-site driveways may be used for stacking space provided that access to required parking spaces is not obstructed (Figure 9.36.140-A). **Reduced requirements may be allowed when sufficient evidence is provided, to the satisfaction of the reviewing authority, to demonstrate that such reduction will not impair traffic safety on the site or surrounding roadways. Documentation could include data relating to traffic counts, operational efficiency and customer projections.**

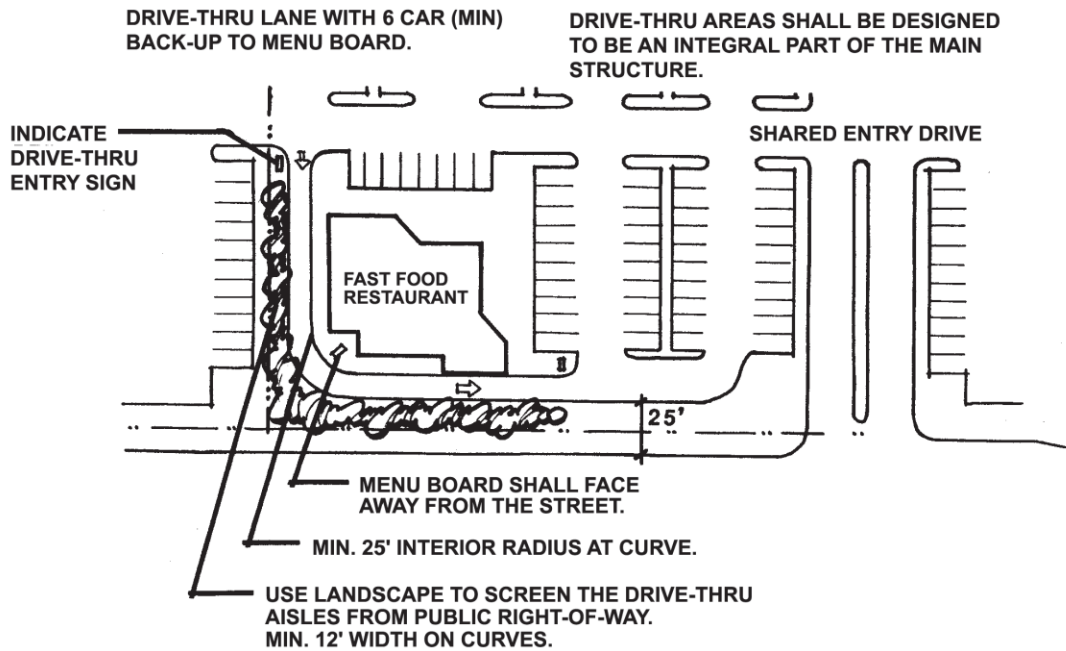


Figure 9.36.140-A Drive in-Drive Thru Restaurants

3. **Access and Circulation** (Figure 9.36.140-A)
 - a. Drive-in, drive-thru, delivery or take-out restaurant sites shall have two (2) points of ingress/egress either to a public street system or to an interior parking lot circulation system which serves a group of businesses subject to approval of the Town Engineer.
 - b. Vehicle entrances to drive-thru businesses shall be located a minimum of 150 feet, 200 feet is preferred, from the nearest intersection.
 - c. Drive-thru facilities shall be provided separate queuing and circulation for drive-thru traffic to insure access for other traffic to parking spaces or exits without waiting in drive-thru service lanes.
 - d. Parking aisles shall not terminate at the drive-thru lane exit.**
 - e. Drive-thru lanes shall have a minimum width of twelve (12) feet and a twenty-five (25)-foot interior radius at curve.**
 - f. Pedestrian walkways should not intersect the drive-thru lane, but when necessary, the crosswalk shall be emphasized by decorative pavement and markings.**
4. **Hours of Operation.** A drive-in, drive-thru, delivery or take-out restaurant located adjacent to any residential use or district shall not open prior to 6:00 a.m. or after 10:00 p.m. The **review authority** approval of a Conditional Use Permit may further restrict the hours of operation for such restaurants when adjacent to

other uses or districts and where modified hours are necessary to mitigate potential adverse impacts related to noise, traffic or lighting.

5. **Landscaping.**

~~a. Drive-thru facilities shall provide a minimum of ten (10) feet of landscaping at the corners between adjacent streets.~~

a. Berming and landscaping shall be provided to screen the entire drive-thru area.

b. Landscaping shall be installed and permanently maintained in compliance with Chapter 9.75, *Water Conservation/Landscaping Regulations*, of this Code.

6. **Lighting.** All on-site lighting shall comply with Chapter 9.70, *Performance Standards*, of this Code.

7. **Noise.** Drive-in, drive thru, delivery or take-out restaurants shall comply with the provisions of Chapter 9.70, *Performance Standards*, of this Code.

8. **Parking.** A parking and vehicular circulation plan encompassing adjoining street, alleys and uses shall be submitted for the review and approval of the Town Engineer prior to the approval ~~by~~ of the **review authority** ~~Conditional Use Permit~~. In addition, all on-site parking shall comply with Chapter 9.72, *Off-Street Parking and Loading Regulations*, of this Code.

9. **Signs.**

a. Signs guiding and directing traffic shall consist of freestanding directional signs and directional markings painted on the pavement.

b. Menu boards shall face away the street or be screened with dense landscaping.

c. Menu boards shall comply with the minimum building setback requirements.

d. All on-site signs shall comply with Chapter 9.74, *Signs and Advertising Displays*, of this Code.

10. **Trash Enclosures.** Trash enclosures shall be **covered and** provided in accordance with the provisions contained in Section 9.35.090, *Trash Enclosures*, of this Code.

FINDINGS

An Amendment to the Development Code requires two (2) "Findings", as listed within Development Code Section 9.06.060. For consideration, the required Findings are listed below, along with a comment addressing each. If there is concurrence with these comments, it may be adopted. If the Council wishes to modify the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment can be included.

- A. The proposed amendment is consistent with the General Plan; and

Comment: The General Plan is the blueprint for the community's future growth. Specific Goals and Objectives are provided within each of the adopted General Plan's State mandated Elements. Many of these stated Goals and Objectives address the community's desire to establish and maintain high standards for the quality, aesthetic appearance and safety for all new and existing development. The proposed Development Code Amendment will modify the standards for drive-thru restaurants by providing clarity in standards, reduce traffic conflicts with increased vehicle stacking and provide flexibility to the standards as approved by the review authority. This change is consistent with the Goals and Objectives of the adopted General Plan.

- B. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: The proposed Development Code Amendment will modify the standards for drive-thru restaurants by providing clarity in standards, reduce traffic conflicts with increased vehicle stacking and provide flexibility to the standards as approved by the review authority. Therefore, the Amendment shall not be detrimental to the health, safety or general welfare of the citizens or visitors of the Town of Apple Valley.

NOTICING

Development Code Amendment No. 2020-003 was advertised as a public hearing in the Apple Valley News newspaper on January 1, 2021.

ENVIRONMENTAL REVIEW

Development Code Amendment No. 2020-003 will provide clarity in standards, increase vehicle stacking and provide flexibility to the standards as approved by the review authority. As proposed, this amendment will not promote development beyond that anticipated within the Environmental Impact Report prepared for the Town's General Plan.

It has been 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.

FISCAL IMPACT

None

ATTACHMENTS:

1. Ordinance No. 543
2. Planning Commission Resolution No. 2020-009
3. November 4, 2020 Planning Commission Agenda Report

ORDINANCE NO. 543

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING SECTION 9.36.140 "DRIVE-IN/DRIVE-THRU RESTAURANTS" BY REVISING DEVELOPMENT STANDARDS AND TO PROVIDE THE REVIEW AUTHORITY THE ABILITY TO APPROVE REDUCTIONS TO THESE STANDARDS THROUGH DOCUMENTATION AND MITIGATION

WHEREAS, The General Plan of the Town of Apple Valley was adopted by the Town Council on August 11, 2009; and

WHEREAS, Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on April 27, 2010; and

WHEREAS, On May 1, 2020, the Town Council initiated a Development Code Amendment, directing staff to work with the Planning Commission to modify the development standards relating to drive-thru restaurants including clarity to development standards, drive-thru queuing and to allow for flexibility as approved by the review authority;

WHEREAS, Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

WHEREAS, On November 4, 2020, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2020-003, inviting testimony from the public and adopting Planning Commission Resolution No. 2020-009 forwarding a recommendation to the Council; and

WHEREAS, Specific changes are proposed to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by modifying Section 9.36.140 "Drive-In/Drive-Thru Restaurants" by revising development standards and to provide the review authority the ability to approve reductions to these standards through documentation and mitigation; and

WHEREAS, Development Code Amendment No. 2020-003 is consistent with the Town's General Plan and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety, and general welfare of the citizens of the Town of Apple Valley; and

WHEREAS, 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; and

WHEREAS, On January 1, 2021, Development Code Amendment No. 2020-003 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, On January 12, 2021 the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2020-003, receiving testimony from the public and

NOW, THEREFORE, the Town Council of the Town of Apple Valley, State of California, does ordain as follows:

Section 1. Find that the changes proposed by Development Code Amendment No. 2020-003 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment 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, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development Code Amendment No. 2020-003 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Modify Development Code Section 9.36.140 “Drive-In/Drive-Thru Restaurants” to read as follows:

“A. **Purpose.** The purpose of this Section is to ensure that drive-in, drive-thru, delivery, and take-out restaurants do not impose adverse impacts on adjacent uses or the surrounding neighborhood because of customer or employee parking demand, traffic generation, noise, light, or litter, consistent with the goals, objectives and policies of the General Plan.

B. **Applicability.** All drive-in, drive-thru, delivery and take-out restaurants are subject to approval as shown in Table 9.35.030-A, Permitted Uses, and shall comply with the development standards of the zoning district in which they are located, this Section and Chapter 9.37, *Commercial and Office Districts Design Standards*, of this Code. Deviations and reductions to these provisions may be considered by the review authority when it can be demonstrated through documentation and mitigation that the requested reduction will not result in a negative impact upon the site or surrounding land uses.

C. **Development Standards**

1. **Site Design.**

a. Drive-thru areas shall be designed to be an integral part of the main structure.

- b. Building placement shall be oriented to screen the drive-thru lane whenever possible.
 - c. Drive-thru windows are discouraged on any building elevation directly facing a public right-of-way.
 - d. Drive-thru facilities shall be provided screening and protection from sun and wind through the use of special landscape and architectural treatments such as berming and bays around the drive aisle.
 - e. Drive thru lanes shall be setback a minimum of twenty-five (25) feet from the ultimate curb face.
2. **Drive-in/Drive-thru Stacking Space.** Stacking lanes for drive-in/drive-thru customers shall be of sufficient length to hold at least eight (8) vehicles (twenty [20]-foot in length per vehicle), with four (4) located behind the order point and four (4) between the order point and pick-up window. On-site driveways may be used for stacking space provided that access to required parking spaces is not obstructed. Reduced requirements may be allowed when sufficient evidence is provided, to the satisfaction of the reviewing authority, to demonstrate that such reduction will not impair traffic safety on the site or surrounding roadways. Documentation could include data relating to traffic counts, operational efficiency and customer projections.
3. **Access and Circulation**
- a. Drive-in, drive-thru, delivery or take-out restaurant sites shall have two (2) points of ingress/egress either to a public street system or to an interior parking lot circulation system which serves a group of businesses subject to approval of the Town Engineer.
 - b. Vehicle entrances to drive-thru businesses shall be located a minimum of 150 feet, 200 feet is preferred, from the nearest intersection.
 - c. Drive-thru facilities shall be provided separate queuing and circulation for drive-thru traffic to insure access for other traffic to parking spaces or exits without waiting in drive-thru service lanes.
 - d. Parking aisles shall not terminate at the drive-thru lane exit.
 - e. Drive-thru lanes shall have a minimum width of twelve (12) feet and a twenty-five (25)-foot interior radius at curve.
 - f. Pedestrian walkways should not intersect the drive-thru lane, but when necessary, the crosswalk shall be emphasized by decorative pavement and markings.
4. **Hours of Operation.** A drive-in, drive-thru, delivery or take-out restaurant located adjacent to any residential use or district shall not open prior to 6:00 a.m. or after 10:00 p.m. The review authority may further restrict the hours of operation for such restaurants when adjacent to other uses or districts and where modified hours are necessary to mitigate potential adverse impacts related to noise, traffic or lighting.

5. Landscaping.

- a. Berming and landscaping shall be provided to screen the entire drive-thru area.
- b. Landscaping shall be installed and permanently maintained in compliance with Chapter 9.75, *Water Conservation/Landscaping Regulations*, of this Code.

6. **Lighting.** All on-site lighting shall comply with Chapter 9.70, *Performance Standards*, of this Code.

7. **Noise.** Drive-in, drive thru, delivery or take-out restaurants shall comply with the provisions of Chapter 9.70, *Performance Standards*, of this Code.

8. **Parking.** A parking and vehicular circulation plan encompassing adjoining street, alleys and uses shall be submitted for the review and approval of the Town Engineer prior to the approval by the review authority. In addition, all on-site parking shall comply with Chapter 9.72, *Off-Street Parking and Loading Regulations*, of this Code.

9. Signs.

- a. Signs guiding and directing traffic shall consist of freestanding directional signs and directional markings painted on the pavement.
- b. Menu boards shall face away the street or be screened with dense landscaping.
- c. Menu boards shall comply with the minimum building setback requirements.
- d. All on-site signs shall comply with Chapter 9.74, *Signs and Advertising Displays*, of this Code.

10. **Trash Enclosures.** Trash enclosures shall be covered and provided in accordance with the provisions contained in Section 9.35.090, *Trash Enclosures*, of this Code.”

Section 4. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 6. Severability. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

Approved and Adopted by the Town Council and signed by the Mayor and attested to by the Town Clerk this ____ day of _____, 2021.

Honorable Curt Emick, Mayor

ATTEST:

Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. Thomas Rice, Town Attorney

Mr. Douglas B. Robertson, Town Manager

PLANNING COMMISSION RESOLUTION NO. 2020-009

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2020-003 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING SECTION 9.36.140 “DRIVE-IN/DRIVE-THRU RESTAURANTS” AS IT RELATES TO CLARITY IN DEVELOPMENT STANDARDS, INCREASED VEHICLE STACKING, AND ALLOWING FLEXIBILITY TO THE STANDARDS AS APPROVED BY THE REVIEW AUTHORITY

WHEREAS, The General Plan of the Town of Apple Valley was adopted by the Town Council on August 11, 2009; and

WHEREAS, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on April 27, 2010; and

WHEREAS, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

WHEREAS, On May 1, 2020, the Town Council initiated a Development Code Amendment, directing staff to work with the Planning Commission to modify the development standards relating to drive-thru restaurants including clarity to development standards, drive-thru queuing and to allow for flexibility as approved by the review authority;

WHEREAS, Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by modifying Section 9.36.140 “Drive-In/Drive-Thru Restaurants” as it relates to clarity in development standards, increased vehicle stacking, and allowing flexibility to the standards as approved by the review authority; and

WHEREAS, on October 23, 2020, Development Code Amendment No. 2020-003 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, 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; and

WHEREAS, on November 4, 2020 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2020-003 receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2020-003 is consistent with the Land Use Element goals and policies of the Town's General Plan and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety, and general welfare of the citizens of the Town of Apple Valley.

NOW, THEREFORE, BE IT RESOLVED that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, does hereby resolve, order and determine as follows and recommends that the Town Council make the following findings and take the following actions:

Section 1. Find that the changes proposed by Development Code Amendment No. 2020-003 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley.

Section 2. 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.

Section 3. Modify Development Code Section 9.36.140 "Drive-In/Drive-Thru Restaurants" to read as follows:

- "A. **Purpose.** The purpose of this Section is to ensure that drive-in, drive-thru, delivery, and take-out restaurants do not impose adverse impacts on adjacent uses or the surrounding neighborhood because of customer or employee parking demand, traffic generation, noise, light, or litter, consistent with the goals, objectives and policies of the General Plan.
- B. **Applicability.** All drive-in, drive-thru, delivery and take-out restaurants are subject to approval as shown in Table 9.35.030-A, Permitted Uses, and shall comply with the development standards of the zoning district in which they are located, this Section and Chapter 9.37, *Commercial and Office Districts Design Standards*, of this Code. Deviations and reductions to these provisions may be considered by the review authority when it can be demonstrated through documentation and mitigation that the requested reduction will not result in a negative impact upon the site or surrounding land uses.
- C. **Development Standards**
 - 1. Site Design.
 - a. Drive-thru areas shall be designed to be an integral part of the main structure.
 - b. Building placement shall be oriented to screen the drive-thru lane whenever possible.

- c. Drive-thru windows are discouraged on any building elevation directly facing a public right-of-way.
 - d. Drive-thru facilities shall be provided screening and protection from sun and wind through the use of special landscape and architectural treatments such as berming and bays around the drive aisle.
 - e. Drive thru lanes shall be setback a minimum of twenty-five (25) feet from the ultimate curb face.
2. **Drive-in/Drive-thru Stacking Space.** Stacking lanes for drive-in/drive-thru customers shall be of sufficient length to hold at least eight (8) vehicles (twenty [20]-foot in length per vehicle), with four (4) located behind the order point and four (4) between the order point and pick-up window. On-site driveways may be used for stacking space provided that access to required parking spaces is not obstructed. Reduced requirements may be allowed when sufficient evidence is provided, to the satisfaction of the reviewing authority, to demonstrate that such reduction will not impair traffic safety on the site or surrounding roadways. Documentation could include data relating to traffic counts, operational efficiency and customer projections.
3. **Access and Circulation**
- a. Drive-in, drive-thru, delivery or take-out restaurant sites shall have two (2) points of ingress/egress either to a public street system or to an interior parking lot circulation system which serves a group of businesses subject to approval of the Town Engineer.
 - b. Vehicle entrances to drive-thru businesses shall be located a minimum of 150 feet, 200 feet is preferred, from the nearest intersection.
 - c. Drive-thru facilities shall be provided separate queuing and circulation for drive-thru traffic to insure access for other traffic to parking spaces or exits without waiting in drive-thru service lanes.
 - d. Parking aisles shall not terminate at the drive-thru lane exit.
 - e. Drive-thru lanes shall have a minimum width of twelve (12) feet and a twenty-five (25)-foot interior radius at curve.
 - f. Pedestrian walkways should not intersect the drive-thru lane, but when necessary, the crosswalk shall be emphasized by decorative pavement and markings.
4. **Hours of Operation.** A drive-in, drive-thru, delivery or take-out restaurant located adjacent to any residential use or district shall not open prior to 6:00 a.m. or after 10:00 p.m. The review authority may further restrict the hours of operation for such restaurants when adjacent to other uses or districts and where modified hours are necessary to mitigate potential adverse impacts related to noise, traffic or lighting.
5. **Landscaping.**
- a. Berming and landscaping shall be provided to screen the entire drive-thru area.

- b. Landscaping shall be installed and permanently maintained in compliance with Chapter 9.75, *Water Conservation/Landscaping Regulations*, of this Code.
6. **Lighting.** All on-site lighting shall comply with Chapter 9.70, *Performance Standards*, of this Code.
7. **Noise.** Drive-in, drive thru, delivery or take-out restaurants shall comply with the provisions of Chapter 9.70, *Performance Standards*, of this Code.
8. **Parking.** A parking and vehicular circulation plan encompassing adjoining street, alleys and uses shall be submitted for the review and approval of the Town Engineer prior to the approval by the review authority. In addition, all on-site parking shall comply with Chapter 9.72, *Off-Street Parking and Loading Regulations*, of this Code.
9. **Signs.**
 - a. Signs guiding and directing traffic shall consist of freestanding directional signs and directional markings painted on the pavement.
 - b. Menu boards shall face away the street or be screened with dense landscaping.
 - c. Menu boards shall comply with the minimum building setback requirements.
 - d. All on-site signs shall comply with Chapter 9.74, *Signs and Advertising Displays*, of this Code.
10. **Trash Enclosures.** Trash enclosures shall be covered and provided in accordance with the provisions contained in Section 9.35.090, *Trash Enclosures*, of this Code.”

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 4th day of November 2020.

Chairman Bruce Kallen

ATTEST:

I, Maribel Hernandez, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 4th day of November 2020, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ms. Maribel Hernandez, Planning Commission Secretary



Planning Commission Agenda Report

DATE: November 4, 2020 **Item No. 3**

CASE NUMBER: Development Code Amendment No. 2020-003

APPLICANT: Town of Apple Valley

PROPOSAL: Consideration of an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code relating to the design and operating standards of drive-thru uses. Standards under review for modification include, site development standards, vehicle stacking, and incorporating language to allow for flexible application of these requirements.

LOCATION: 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.

CASE PLANNER: Pam Cupp, Senior Planner

RECOMMENDATION: Adopt Planning Commission Resolution No. 2020-009

BACKGROUND

At the May 1, 2019 joint meeting of the Town Council and Planning Commission, staff was directed by the Council to work with the Planning Commission to review the current drive-thru regulations to make sure the Town remains current with existing trends and to recommend modifications that could create flexibility to the minimum standards.

ANALYSIS

As requested by Council, staff completed its analytical review of Development Code Section 9.36.140 “Drive-In/Drive-Thru Restaurants”. With the exception of menu board size requirements, little has changed since 1988. Development of drive-thru restaurants occurs mostly within master planned shopping centers; however, there have been a couple of drive-thru projects located within strip centers or as a stand-alone, single use developed over the past several years. Challenges that face most drive-thru restaurants include having available space for vehicle stacking together with vehicular and pedestrian level circulation. Stand-alone and strip center drive-through uses typically face additional challenges relating to proximity to residential uses and zoning designations. Based upon the existing regulations, flexibility to the site development standards may only be granted through the approval of a Variance.

Staff performed a comparative analysis examining the requirements of similar cities in our region. As a result, staff found several areas that should be considered for modification:

- The standards identified within Figure “9.36.140-A Drive in-Drive Thru Restaurants” should be added to the text as site development standards and the figure removed.
- The Commission should consider enhanced site development standards to encourage screening of the drive-thru lane and pick-up window from the public right-of-way. Additionally, drive-thru lane standards should be incorporated into the Code.
- The comparative analysis found that vehicle stacking requirements vary between cities from six (6) being the fewest up to as many as ten (10) vehicles or 180 feet as required by the City of Riverside. The Town’s requires stacking for a minimum of six (6) vehicles. The Commission should consider whether it would be appropriate to increase the minimum vehicle stacking to eight (8) vehicles with a minimum of four (4) vehicle stacking spaces to be located behind the order point. Many of the drive-thru restaurants in Apple Valley have stacking for two (2) at the order point with stacking for four (4) vehicles from the furthest pick-up window. Frequently, vehicles are stacked into the adjacent parking lot and drive aisles. Staff would recommend providing the review authority the option to reduce or increase the minimum requirements when deemed appropriate.
- It was the direction of the Town Council to recommend provisions that could provide flexibility to the site development standards; therefore, staff is offering for the Commission’s consideration language to provide additional flexibility to the standards as approved by the review authority.

Staff has prepared the following modifications for the Commission’s consideration. The proposed modifications are shown with strike-thru/bold underlined.

9.36.140 - Drive-In/Drive-Thru Restaurants

- A. **Purpose.** The purpose of this Section is to ensure that drive-in, drive-thru, delivery, and take-out restaurants do not impose adverse impacts on adjacent uses or the surrounding neighborhood because of customer or employee parking demand, traffic generation, noise, light, or litter, consistent with the goals, objectives and policies of the General Plan.
- B. **Applicability.** All drive-in, drive-thru, delivery and take-out restaurants are subject to approval as shown in Table 9.35.030-A, Permitted Uses, and shall comply with the development standards of the zoning district in which they are located, this Section and Chapter 9.37, *Commercial and Office Districts Design Standards*, of this Code. **Deviations and reductions to these provisions may be considered by the review authority when it can be demonstrated through documentation and mitigation that the requested reduction will not result in a negative impact upon the site or surrounding land uses.**
- C. **Development Standards**
1. **Site Design.**
 - a. Drive-thru areas shall be designed to be an integral part of the main structure.
 - b. Building placement shall be oriented to screen the drive-thru lane whenever possible.**
 - c. Drive-thru windows are discouraged on any building elevation directly facing a public right-of-way.**
 - d. Drive-thru facilities shall be provided screening and protection from sun and wind through the use of special landscape and architectural treatments such as berming and bays around the drive aisle.
 - e. Drive thru lanes shall be setback a minimum of twenty-five (25) feet from the ultimate curb face.
 2. **Drive-in/Drive-thru Stacking Space.** Stacking lanes for drive-in/drive-thru customers shall be of sufficient length to hold at least **eight (8)** ~~six (6)~~ vehicles (twenty [20]-foot in length per vehicle), **with four (4) located behind the order point and four (4) between the order point and pick-up window.** ~~for a minimal total staking length of 120 feet. On-site driveways may be used for stacking space provided that access to required parking spaces is not obstructed (Figure 9.36.140-A).~~ **Reduced requirements may be allowed when sufficient evidence is provided, to the satisfaction of the reviewing authority, to demonstrate that such reduction will not impair traffic safety on the site or surrounding roadways. Documentation could include data relating to traffic counts, operational efficiency and customer projections.**

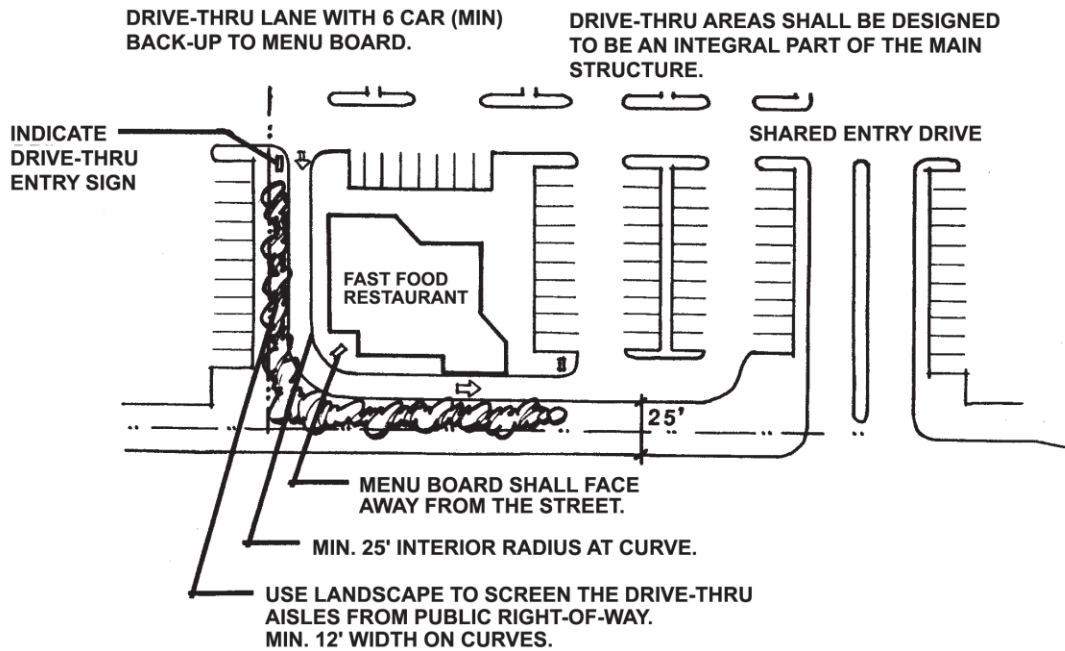


Figure 9.36.140-A Drive in-Drive Thru Restaurants

3. **Access and Circulation** (Figure 9.36.140-A)
 - a. Drive-in, drive-thru, delivery or take-out restaurant sites shall have two (2) points of ingress/egress either to a public street system or to an interior parking lot circulation system which serves a group of businesses subject to approval of the Town Engineer.
 - b. Vehicle entrances to drive-thru businesses shall be located a minimum of 150 feet, 200 feet is preferred, from the nearest intersection.
 - c. Drive-thru facilities shall be provided separate queuing and circulation for drive-thru traffic to insure access for other traffic to parking spaces or exits without waiting in drive-thru service lanes.
 - d. Parking aisles shall not terminate at the drive-thru lane exit.**
 - e. Drive-thru lanes shall have a minimum width of twelve (12) feet and a twenty-five (25)-foot interior radius at curve.**
 - f. Pedestrian walkways should not intersect the drive-thru lane, but when necessary, the crosswalk shall be emphasized by decorative pavement and markings.**

4. **Hours of Operation.** A drive-in, drive-thru, delivery or take-out restaurant located adjacent to any residential use or district shall not open prior to 6:00 a.m.

or after 10:00 p.m. The review authority approval of a ~~Conditional Use Permit~~ may further restrict the hours of operation for such restaurants when adjacent to other uses or districts and where modified hours are necessary to mitigate potential adverse impacts related to noise, traffic or lighting.

5. **Landscaping.**

~~a. Drive thru facilities shall provide a minimum of ten (10) feet of landscaping at the corners between adjacent streets.~~

a. Berming and landscaping shall be provided to screen the entire drive-thru area.

b. Landscaping shall be installed and permanently maintained in compliance with Chapter 9.75, *Water Conservation/Landscaping Regulations*, of this Code.

6. **Lighting.** All on-site lighting shall comply with Chapter 9.70, *Performance Standards*, of this Code.

7. **Noise.** Drive-in, drive thru, delivery or take-out restaurants shall comply with the provisions of Chapter 9.70, *Performance Standards*, of this Code.

8. **Parking.** A parking and vehicular circulation plan encompassing adjoining street, alleys and uses shall be submitted for the review and approval of the Town Engineer prior to the approval by of the review authority ~~Conditional Use Permit~~. In addition, all on-site parking shall comply with Chapter 9.72, *Off-Street Parking and Loading Regulations*, of this Code.

9. **Signs.**

a. Signs guiding and directing traffic shall consist of freestanding directional signs and directional markings painted on the pavement.

b. Menu boards shall face away the street or be screened with dense landscaping.

c. Menu boards shall comply with the minimum building setback requirements.

d. All on-site signs shall comply with Chapter 9.74, *Signs and Advertising Displays*, of this Code.

10. **Trash Enclosures.** Trash enclosures shall be covered and provided in accordance with the provisions contained in Section 9.35.090, *Trash Enclosures*, of this Code.

FINDINGS

An amendment to the Development Code requires that the Planning Commission address two (2) required “Findings”, as listed within Development Code Section 9.06.060. For Commission consideration, the required Findings are listed below, along with a comment addressing each. If the Commission concurs with these comments, they may be adopted and forwarded to the Council for its consideration of the Development Code Amendment. If the Commission wishes modifications to the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included into the information forwarded to the Council for consideration.

A. The proposed amendment is consistent with the General Plan; and

Comment: The General Plan is the blueprint for the community’s future growth. Specific Goals and Objectives are provided within each of the adopted General Plan’s State mandated Elements. Many of these stated Goals and Objectives address the community’s desire to establish and maintain high standards for the quality, aesthetic appearance and safety for all new and existing development. The proposed Development Code Amendment will modify the standards for drive-thru restaurants by providing clarity in standards, reduce traffic conflicts with increased vehicle stacking and provide flexibility to the standards as approved by the review authority. This change is consistent with the Goals and Objectives of the adopted General Plan.

B. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: The proposed Development Code Amendment will modify the standards for drive-thru restaurants by providing clarity in standards, reduce traffic conflicts with increased vehicle stacking and provide flexibility to the standards as approved by the review authority. Therefore, the Amendment shall not be detrimental to the health, safety or general welfare of the citizens or visitors of the Town of Apple Valley.

NOTICING

Development Code Amendment No. 2020-003 was advertised as a public hearing in the Apple Valley News newspaper on October 23, 2020.

ENVIRONMENTAL REVIEW

Development Code Amendment No. 2020-003 will provide clarity in standards, increase vehicle stacking and provide flexibility to the standards as approved by the review authority. As proposed, this amendment will not promote development beyond that anticipated within the Environmental Impact Report prepared for the Town’s General Plan.

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.

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2020-009 forwarding a recommendation that the Town Council amend Title 9 “Development Code” of the Town of Apple Valley Municipal Code as outlined within the staff report.

Attachment:

Draft Planning Commission Resolution No. 2020-009