



Planning Commission Report

Planning Commission Meeting: October 21, 2020

Agenda Item: 9-B

To: Planning Commission
From: Jing Yeo, AICP, City Planning Division Manager
Subject: Recommendation to Amend Section 9.10.040 of the Santa Monica Municipal Code to Prohibit Certain Fast Food Restaurants in Establishments with Frontage on the Third Street Promenade

Recommended Action

Staff recommends that the Planning Commission adopt a resolution recommending that the City Council amend Section 9.10.040 of the Santa Monica Municipal Code to prohibit certain fast food restaurants in establishments with frontage on the Third Street Promenade.

Background

In November 2018, in order to ensure that the Third Street Promenade maintained its authentic characteristics and provided visitors with a distinctive experience not found in most downtown shopping districts, City Council adopted an urgency Interim Zoning Ordinance (IZO) to prevent the proliferation of fast food restaurants on the Promenade.

The IZO created a new land use classification for “Restaurant, Fast Food” applicable only to the BC (Promenade) zone as establishments having the following:

- More than 100 locations nationwide at the time that the application for the establishment is deemed complete by the City; and
- Characteristics, including but not limited to, orders placed at a walk-up window, counter, or machine; payment prior to food consumption; and food served with disposable, one-time, or limited-use wrapping, containers, or utensils.

Typically, such establishments may utilize standardized signage or décor, and permit consumption of food and beverages on the premises within a short period of time or taken off the premises.

The IZO prohibited Fast Food Restaurants in establishments with frontage on the Third Street Promenade. In addition, the land use classification for “Restaurant, Limited-Service and Take-Out” was modified to not include Fast Food Restaurant uses.

On November 12, 2019, Council extended the Urgency IZO which is set to expire on November 26, 2020. Pursuant to Santa Monica Municipal Code (SMMC) Section

9.46.090(D) and Government Code Section 65858, the extension represented the maximum time allowed and therefore, no further extensions are permitted.

On October 7, 2020, the Planning Commission adopted a Resolution of Intention to consider amendments to the Zoning Ordinance to prohibit certain Restaurant, Limited-Service and Take-Out establishments with frontage on the Third Street Promenade.

Discussion

Fast food restaurants are formula establishments with numerous locations and standardized features (such as façade, décor, color scheme, signage) dependent on brand recognition created through the repetition of the same characteristics for each store in multiple locations. While this consistency breeds familiarity for consumers, it runs counter to the policies in the DCP that value the retention of Downtown's authenticity and desire to encourage local uses and promote unique visitor experiences.

The Promenade's success has resulted from the creation of an authentic urban retail, dining and cinema experience. As the economic recovery from COVID-19 begins and the retail landscape evolves, the Promenade's competitive advantage will depend on the ability to deliver on a range of unique dining, retail, and entertainment uses with an emphasis on promoting a diverse base of eating establishments. It is not the intent to create a Promenade experience that could be found in any number of other Southern California cities. Cities as diverse as Los Angeles, Truckee, Cotati, San Francisco, and Seaside have adopted some form of neighborhood or citywide control on fast food restaurants due to similar concerns. If current regulations continue and smaller local establishments continue to suffer from the impacts of COVID-19, there is the potential for small- and medium-sized eating establishments to be eliminated from the Promenade and replaced only with national chains which would decrease the diversity of food offerings to residents and visitors. This could negatively impact the character and purpose of the Promenade as a successful public place. The Promenade is a public space that is defined as much by the uses that frame the space as the urban design elements. The type of uses influence consumer behavior and the visitor experience. There are also environmental considerations as fast food generates a significant amount of waste due to dependence on disposable tableware and packaging.

The proposed amendments to SMMC Section 9.10.040 would make permanent the existing interim prohibition on fast food uses with frontage on the Promenade. However, to facilitate the ease in identifying these types of establishments and implementing the regulations, staff does not propose creating new or modifying existing land use definitions that would only be applicable to one specific zoning district as was done with the IZO. Instead, the criteria identifying these types of Restaurant, Limited-Service and Take-Out uses would be added as a Specific Limitation to the land use regulations table. This should allow for simpler and more clear implementation of the use regulations for fast food in the Promenade area.

In addition, in order to provide additional flexibility in light of current economic conditions due to COVID-19, the applicability threshold is proposed to be increased from 100 to

150 locations nationwide at the time that the application for the establishment is deemed complete by the City. The threshold of 100 domestic locations was intended to prohibit traditional nationwide fast food restaurants while permitting smaller regional chains and international fast food restaurants likely to serve as a unique draw for consumers. Given current economic conditions and an anticipated increase in vacancies caused by the COVID-19 pandemic, a slight increase of this threshold to 150 domestic outlets is proposed.

The proposed amendments are as follows:

Use Classification	LT	NV	BC (Promenade)	BC (2nd & 4th Streets)	TA	OT	WT	Additional Regulations
Eating and Drinking Establishments	See sub-classifications below.							
Bars/Nightclubs/Lounges	CUP	CUP	CUP	CUP	CUP	CUP (10)	-	
Restaurants, Full-Service, Limited Service & Take-out (2,500 sq ft and smaller, including Outdoor Dining and Seating)	P	P	PL(22)	P	P	P	P	SMMC Section 9.31.040, Alcoholic Beverage Sales
Restaurants, Full-Service, Limited Service & Take-out (2,501 – 5,000 sq ft, including Outdoor Dining and Seating)	MUP	P	PL(22)	P	P	P	MUP	SMMC Section 9.31.280, Restaurants, Limited Service, and Take-Out Only
Restaurants, Full-Service, Limited Service & Take-out (greater than 5,000 sq ft, including Outdoor Dining and Seating)	CUP	P	PL(22)	P	P	P	CUP	SMMC Section 9.31.200, Outdoor Dining and Seating

(22) Restaurant, Limited-Service and Take-Out establishments with frontage on the Third Street Promenade and the following characteristics shall be prohibited:

- (a) More than 150 locations nationwide at the time that the application for the establishment is deemed complete by the City; and
- (b) Characteristics, including but not limited to, orders placed at a walk-up window, counter, or machine; payment prior to food consumption; and food served with disposable, one-time, or limited-use wrapping, containers, or utensils.

~~Typically, such establishments may utilize standardized signage or décor, and permit consumption of food and beverages on the premises within a short period of time or taken off the premises.~~

The prohibition would apply only to establishments with frontage on the Third Street Promenade. Restaurants, Limited-Service and Take-Out with the characteristics identified above would continue to be allowed throughout the other Downtown districts and in all other commercial districts citywide.

In addition, Restaurants, Limited-Service and Take-Out with the characteristics identified above would be allowed in Food Hall uses on the Promenade as permitted in the BC (Promenade) district pursuant to emergency Interim Zoning Ordinance Number 2636 (CCS).

Environmental Analysis

The proposed zoning regulations are categorically exempt from the provisions of the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. (CEQA), pursuant to Section 15061(b)(3) of the State Implementation Guidelines (common sense exemption) as it can be seen with certainty that there is no possibility that the proposed Interim Zoning Ordinance may have a significant effect on the environment. This determination is made based on the record as a whole, which includes, but is not limited to, evidence that the proposed zoning regulations represent a change to use standards for a very limited area within the City's Downtown and would be more restrictive than existing use standards that were previously analyzed in an Environmental Impact Report (SCH #2013091056) certified in 2017 in conjunction with the adoption of the City's Downtown Community Plan. Therefore, no further environmental review under CEQA is required.

Alternative Actions

In addition to the recommended action, the Planning Commission could consider the following with respect to the project:

- A1. Revise the proposed amendments and recommend adoption to the City Council.
- A2. Recommend that the City Council not adopt the proposed amendments.

Zoning Text Amendment Findings

- 1. The proposed amendments to the text of the Zoning Ordinance are consistent with the General Plan and any applicable Specific Plans in that they will support Downtown's role as a visitor destination by encouraging uses that appeal to both locals and tourists, including food, retail, entertainment and overnight accommodations and will maintain and increase locally-based, independent, small retailers that allow residents and employees to meet their daily needs on foot.

2. The proposed amendments to the text of the Zoning Ordinance are consistent with the purpose of the Zoning Ordinance to promote the growth of the City in an orderly manner and to promote and protect the public health, safety, and general welfare in that the amendments will protect the unique character of the Third Street Promenade, reduce waste generated by disposable tableware and packaging, and allow for planning efforts for the future of the Promenade to continue.

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Attachment

- A. Proposed Redline Modifications
- B. Planning Commission Resolution Recommending Amendments to the Zoning Ordinance