

RESOLUTION NO. _____

A RESOLUTION OF PLANNING COMMISSION OF THE CITY OF BURBANK RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURBANK AMENDING TITLE 10, CHAPTER 1 (ZONING) OF THE BURBANK MUNICIPAL CODE TO UPDATE THE DEVELOPMENT STANDARDS FOR THE CONVERSION OF EXISTING BUSINESSES WITH A DRIVE-THROUGH, THE PROHIBITION OF RESIDENTIALLY ADJACENT RESTAURANTS WITH A DRIVE-THROUGH, REQUIREMENT TO OBTAIN A CONDITIONAL USE PERMIT TO OPERATE A DRIVE-THROUGH ESTABLISHMENT, CHANGES TO THE MINIMUM STACKING DISTANCE REQUIREMENTS, AND LIMITATION OF HOURS OF OPERATIONS FOR ESTABLISHMENTS WITH A DRIVE-THROUGH.

(Zone Text Amendment; Project No. 23-0001387)

THE PLANNING COMMISSION OF THE CITY OF BURBANK FINDS:

A. The Planning Commission of the City of Burbank at its meeting of May 22, 2023, held a public hearing on Project No. 23-0001387 (Zone Text Amendment) to update development standards for the conversion of existing businesses with a drive-through and new and existing restaurants with a drive-through.

B. Said hearing was properly noticed in accordance with the provisions of Burbank Municipal Code Section 10-1-1994.

C. The Planning Commission considered the report and recommendations of the City Planner and the evidence presented at such hearing.

D. In accordance with the California Environmental Quality Act, the City Planner-proposed Zone Text Amendment and associated Ordinance has been determined to be exempt from environmental review pursuant to "common sense exemption" per Section 15061(b)(3) of the CEQA Guidelines, wherein the project in question has no potential for causing a significant effect on the environment. There are no pending applications for restaurants with a drive-through that would be affected by this Zone Text Amendment or that would otherwise be forced to relocated to other locations. Furthermore, pursuant to Section 15378(a)(1), this ZTA is not considered a "project" subject to the requirements of CEQA.

E. In accordance with California Government Code Section 65860, the proposed Zone Text Amendment and associated Ordinance has been determined to be consistent with the Burbank2035 General Plan and the provisions of Title 10, Chapter 1 (Zoning) of the Burbank Municipal Code, and are compatible with the objectives, policies, general land uses and programs specified therein.

F. The Planning Commission has reviewed the City Planner's environmental assessment and concurs with the assessment that the project qualifies for "common sense exemption" pursuant to Section 15061(b)(3) of the CEQA Guidelines. Furthermore,

pursuant to Section 15378(a)(1), this ZTA is not considered a "project" subject to the requirements of CEQA.

G. The documents and other materials that constitute the record of proceedings, upon which the decision to recommend approval of the proposed Zone Text Amendment (No. 23-0001387) and associated environmental assessment that the project qualifies for a statutory exemption under CEQA, is located in the Planning Division of the City of Burbank and the custodian of the record is the City Planner.

THE PLANNING COMMISSION OF THE CITY OF BURBANK RESOLVES:

1. **TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF PROJECT.** Project No. 23-0001387, a Zone Text Amendment to update Title 10, Chapter 1 (Zoning), as described above and in the staff report dated April 10, 2023, and as reflected in the exhibit attached hereto, which would result in amendments to the zoning text regulating Burbank Municipal Code Sections 10-1-502, 10-1-1608 and 10-1-1609, related to the regulations for the conversion of existing businesses with a drive-through, the prohibition of residentially adjacent restaurants with a drive-through, requirement of a Conditional Use Permit to operate a drive-through establishment, changes to the minimum stacking distance requirements, and limiting the hours of operations for establishments with a drive-through from 6 am 10 pm unless approved as part of Conditional Use Permit, is hereby recommended to the City Council for approval. Attachment 1 (Draft Ordinance), as attached to this Resolution, reflects the Commission's recommendation.

This recommendation is based upon the Planning Commission's ability to make the following finding per California Government Code Section 65860:

FINDING FOR ZONE TEXT AMENDMENT:

- a. *California Government Code Section 65860 requires that any zone text amendment be consistent with the objectives, policies, general land uses and programs specified Burbank2035 General Plan and the provisions of Title 10, Chapter 1 (Zoning) of the Burbank Municipal Code.*

The Zone Text Amendment (ZTA) updates development standards for the conversion of existing businesses with a drive-through and new and existing restaurants with a drive-through and is consistent with the General Plan of the City of Burbank and the provisions of Title 10, Chapter 1 (Zoning) of the Burbank Municipal Code, and are compatible with the objectives, policies, general land uses and programs specified therein.

This ZTA supports the implementation of Land Use Goal 1 (Quality of Life) and Policy 1.3, which seeks to maintain and protect Burbank's residential neighborhoods by avoiding encroachment of incompatible land uses and public facilities. The proposed ZTA will protect residential and commercial neighborhoods from the potential negative impacts associated with drive-through establishments. Requiring a minimum vehicle queueing lane of 300 feet and a

limitation on hours of operation will ensure that the residentially adjacent areas maintain their quiet, small-town residential quality.

Additionally, the ZTA supports Policy 1.5, which ensures careful review and consideration of non-residential uses with the potential to degrade quality of life. Requiring a Conditional Use Permit approval for new drive-through establishments will ensure that each drive-through facility is carefully reviewed for conformance with the standards set forth in the Burbank Municipal Code and considered by the Planning Commission as part of a public hearing process.

The ZTA supports the implementation of Land Use Goal 3 (Community Design and Character) and Policy 3.5, which seeks to ensure that site design are high quality, creative, complementary to Burbank's character and compatible with surrounding development and public spaces. The ZTA will ensure high quality site design for future commercial developments that are complementary to character of the surrounding residential and commercial neighborhoods while respecting the public space by requiring a minimum stacking distance of 300 feet and queuing lane analysis for an establishment with a drive-through.

The ZTA supports the implementation of Land Use Goal 10 (Commercial Corridors), Policy 10.6, which seeks to ensure that the design of businesses and surrounding rights-of-way maintains the ability of streets and sidewalks to serve pedestrians in commercial corridors. Additionally, Mobility Goal 6 (Neighborhood Protection), Policy 6.1 seeks to maintain arterial street efficiency to discourage spillover traffic into residential neighborhoods and Policy 9.1 seeks to ensure safe interaction between all modes of travel that use the street network, specifically the interaction of bicyclists, pedestrians, and equestrians with motor vehicles. Many of the City's drive-through restaurants can be found within commercial corridors along arterial streets. This ZTA will require high quality site design to ensure vehicular traffic can safely and efficiently access and exit the drive-through sites without obstructing the free flow of traffic in the public right-of-way by requiring a minimum stacking distance of 300 feet and queuing lane analysis for an establishment with a drive-through.

BMC Section 10-1-1985 address the requirements for considering text amendments. The findings for approval of a ZTA largely address the requirements for adding a use, however, Section 10-1-1992 specifies that the Planning Commission shall consider all land use amendments and amendments to the property development standards and report to the Council with a recommendation approving or disapproving the amendment.

This ZTA will support the vision of quiet, pedestrian friendly single-family and multiple-family residential zones throughout the city by ensuring their character is protected and maintained by prohibiting residentially adjacent restaurants with drive-through, the establishment of a minimum stacking distance of 300 feet and limiting the hours of operations for establishments with a drive-through from 6am 10pm unless approved as part of Conditional Use Permit. Furthermore, upon recommendation by the Planning Commission, this ZTA will be presented at a

public hearing to the City Council and is therefore consistent with Article 19, Division 7 of the Burbank Municipal Code, which requires that the repeal or modification of a listed use and any change in the prohibited uses must be preceded by a public hearing.

This ZTA will also support the vision of single-family and multiple-family residential zones throughout the city by ensuring their character is protected and maintained with the requirement of CUP approval, the prohibition of residentially adjacent restaurants with drive-through, the establishment of a minimum stacking distance of 300 feet and limiting the hours of operations for establishments with a drive-through from 6 am 10 pm unless approved as part of Conditional Use Permit.

- 2 The Secretary of the Planning Commission shall forward a signed copy of this Resolution with the Planning Commission's report and decision to the City Council in accordance with Burbank Municipal Code Section 10-1-1993.

PASSED AND ADOPTED this 22 day of May, 2023.

CITY PLANNING COMMISSION



Chairperson

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF BURBANK

I, Fred Ramirez, Secretary of the Planning Commission of the City of Burbank, certify that this Resolution was adopted by the City Planning Commission at its meeting held on the 22 day of May, 2023, by the following vote:

AYES: Elric, Monaco, Wick

NOS: Rizzotti, Atteukenian

ABSENT:

ABSTAINED:



Fred Ramirez, Secretary

ATTACHMENT 1:

DRAFT ORDINANCE

[Attached]

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURBANK AMENDING TITLE 10, CHAPTER 1 (ZONING) OF THE BURBANK MUNICIPAL CODE TO UPDATE THE DEVELOPMENT STANDARDS FOR THE CONVERSION OF EXISTING BUSINESSES WITH A DRIVE-THROUGH, THE PROHIBITION OF RESIDENTIALLY ADJACENT RESTAURANTS WITH A DRIVE-THROUGH, REQUIREMENT TO OBTAIN A CONDITIONAL USE PERMIT TO OPERATE A DRIVE-THROUGH ESTABLISHMENT, CHANGES TO THE MINIMUM STACKING DISTANCE REQUIREMENTS, AND LIMITATION OF HOURS OF OPERATIONS FOR ESTABLISHMENTS WITH A DRIVE-THROUGH.

City Attorney's Synopsis

This Ordinance amends the Burbank Municipal Code, Title 10, Chapter 1, by updating the zoning text regulating development standards for the conversion of existing businesses with a drive-through, the prohibition of residentially adjacent restaurants with a drive-through, requirement to obtain a conditional use permit to operate a drive-through establishment, changes to the minimum stacking distance requirements, and limiting the hours of operations.

THE COUNCIL OF THE CITY OF BURBANK FINDS, DETERMINES, AND DECLARES THAT:

A. The City of Burbank ("City") is amending regulations regarding the development and conversion of existing businesses with a drive-through and new and existing restaurants with a drive-through to address potential negative impacts, such as vehicle spillover, blocked driveways, and trash, posed by drive-through facilities to adjacent residential neighborhoods and commercial corridors in the City of Burbank ensuring that any alterations to existing drive-through facilities, operations or the establishment of new drive-through facilities are subject to discretionary approval; and

B. The City Council adopted an Interim Urgency Ordinance No. 22-3,979 on October 4, 2022, establishing a moratorium on new and replacement restaurants with drive-throughs and the conversion of businesses with drive-throughs into drive-through restaurants citywide and adopted Ordinance No. 22-3,982, an extension to the Interim Urgency Ordinance on November 1, 2022. The moratorium expired on December 16, 2022; and

C. Drive-through restaurants have been allowed as a commercial use in the City of Burbank for several decades. However, a recent industry wide trend for restaurants with drive-through is to maximize the use of the drive-through, reducing the required space for walk-up counter and dine-in service. Additionally, the City has recognized that there may be a correlation between the shutdown of indoor dining during the COVID pandemic and the increase in the use of drive-throughs. The City's current development standards did not anticipate the shift to drive-throughs caused by the COVID pandemic

response, and the subsequent behavioral shift that incentivizes the majority of a restaurant's business to be conducted within the drive-through lane; and

D. The City acknowledges the need to address concerns regarding the potential negative impacts imposed by the conversion of existing businesses with a drive-through and new and existing restaurants with a drive-through; and

E. The proposed ordinance removes redundant and unclear language concerning the regulatory process for drive-through establishments, prohibits new restaurants with drive-throughs that are residentially adjacent, requires a Conditional Use Permit to operate an establishment with drive-through, increases minimum stacking distance requirements and establishes allowable hours of operations; and

F. The proposed Ordinance and resulting zone text amendment will benefit the community by ensuring that residential neighborhoods and commercial corridors are protected from any negative impacts imposed by drive-through facilities by prohibiting residentially adjacent restaurants with drive-through and by establishing a discretionary process that assesses potential impacts to adjacent land uses for new and existing drive-through facilities; and

G. The City Council hereby finds and determines that this Ordinance is not subject to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") pursuant to Section 15061 (b)(3) of the CEQA Guidelines in which the project has no potential for causing a significant effect on the environment. There are no pending applications for restaurants with a drive-through that would be affected by this Zone Text Amendment or that would otherwise be forced to relocated to other locations. Furthermore, pursuant to Section 15378(a)(1), this ZTA is not considered a "project" subject to the requirements of CEQA; and

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN AS FOLLOWS:

Section 1. Findings. All the findings set forth above are true and correct and are incorporated herein as if restated in their entirety.

Section 2. Amendment to Burbank Municipal Code (BMC) 10-1-502 Uses in All Zones. Table 10-1-502 is hereby amended to read as follows (additions to the BMC are underlined and deletions are marked in ~~strikeout~~):

City of Burbank Zoning Use List | Burbank Municipal Code Section 10-1-502

P = permitted

(blank) = prohibited

[PRH] = prohibited if residentially adjacent as defined in 10-1-203

CUP = Conditional Use Permit required

[CUP] = CUP required if residentially adjacent as defined in 10-1-203

AUP = Administrative Use Permit required

[AUP] = AUP required if residentially adjacent as defined in 10-1-203

LAND USE		M-1	M-2		NB	GO	RC	C-R	RBP		MPC-1	MPC-2	MPC-3		AP		AD
RETAIL SALES AND DINING																	
Restaurant with drive-through (Section 10-1-16089)		CUP [PRH]	CUP [PRH]									CUP [PRH]	CUP [PRH]		CUP [PRH]		
VEHICLE RELATED																	
Drive-through establishments in conjunction with a permitted land use ¹²		CUP	CUP				CUP		CUP		CUP	CUP	CUP		CUP		

¹² REFER TO SECTIONS 10-1-1608 AND 10-1-1609

Section 3. Deletion of Burbank Municipal Code (BMC) 10-1-1608 Drive-Through Restaurants. Section 10-1-1608 is replaced in its entirety with the following (additions to the BMC are underlined and deletions are marked in ~~strikeout~~):

10-1-1608: DRIVE-THROUGH RESTAURANTS:

- ~~1. STACKING DISTANCE. All new drive-through restaurants shall have a drive-up or drive-through bay for in-car service with an on-site vehicular waiting lane. The on-site vehicular waiting lane shall be a minimum length of 160-300 feet as measured along the centerline from the point of entry or the beginning of a drive-through lane, to the center of the farthest service window area (the "stacking distance").~~
- ~~2. SEPARATE WAITING LANE FOR NEW DRIVE-THROUGH RESTAURANTS. The drive-through lane shall be a separate lane from the circulation routes and aisles necessary for ingress to or egress from the property or access to any off-street parking spaces.~~
- ~~3. CONDITIONAL USES. In addition to the above requirements, all new drive-through restaurants shall receive a Conditional Use Permit.~~
- ~~4. EXISTING USES WITH 100 FEET OR MORE OF STACKING LANE. Any drive-through restaurant in existence on or before March 2, 1996, (effective date of this section) which has at least 100 feet on-site stacking distance shall be automatically deemed a permitted use and not subject to this section.~~
- ~~5. EXISTING USES WITH LESS THAN 100 FEET OF STACKING LANE. Any drive-through restaurant in existence on or before March 2, 1996, (effective date of this section) which has less than 100 feet on-site stacking distance may continue operating, but may not be expanded, enlarged, or, otherwise modified until the proposed work has been evaluated by the Building Official. If the Building Official determines that the desired work will 1-) prolong the useful life of the service window (s) and/or 2-) increase the pre-permit building valuation, as defined herein, by ten percent or more, than the property owner shall obtain an Administrative Use Permit prior to the issuance of any building permits or other development permits. Pre-permit building valuation shall be the value of the building assessed by the Building Official as determined from the most recent edition of the International Conference of Building Officials "Building Valuation Data".~~
- ~~6. NEW AND EXISTING RESIDENTIALLY ADJACENT DRIVE-THROUGHS MUST COMPLY WITH SECTION 10-1-1609. On and after December 26, 1998, this entire Section 10-1-1608, including the exceptions in Subsection (4) and (5) of Section 10-1-1608 shall not apply to residually adjacent drive-through restaurants, but rather all new and existing residually adjacent drive-throughs shall be subject to Section 10-1-1609. [Added by Ord. No. 3431, eff. 3/2/96. Amended by Ord. No. 3503, eff. 12/26/98.]~~

10-1-1608: DRIVE-THROUGH ESTABLISHMENTS:

A. PROHIBITED USE.

Residentially adjacent restaurants with drive-through are prohibited.

B. DISCONTINUATION OF USE

Any legal non-conforming establishment with drive-through that cease operation for any reason for a period of three (3) consecutive calendar months or 90 days is subject to

Section 10-1-1809.3 and 10-1-1809.4.

C. CONDITIONAL USE PERMIT REQUIRED.

1) A Conditional Use Permit (CUP) is required to operate a drive-through establishment.

a. A queuing lane analysis, prepared by the City and funded by the applicant, is a requirement for an establishment with drive-through.

b. Changes to operations for existing drive-through establishments, including but not limited to hours of operation and expansion of the drive-through facility, shall require a CUP.

D. STACKING DISTANCE.

All new drive-throughs shall have a drive-up or drive-through bay for in-car service with an on-site vehicular waiting lane. The on-site vehicular waiting lane shall be a minimum length of 300 feet as measured along the centerline from the point of entry or the beginning of a drive-through lane, to the center of the farthest service window area (the "stacking distance").

1. An applicant can request that the Director consider a reduction in the minimum stacking distance subject to the preparation of a queuing lane analysis, but in no instance shall the minimum stacking distance be no less than 220 feet. Final approval of the minimum stacking distance shall be at the sole discretion of the Director or his/her designee.

E. SEPARATE WAITING LANE.

For new drive-throughs, the drive-through lane shall be a separate lane from the circulation routes and aisles necessary for ingress to or egress from the property or access to any off-street parking spaces.

F. HOURS OF OPERATION FOR AN ESTABLISHMENT WITH DRIVE-THROUGH

The hours of operation are limited to 6am to 10pm, unless approved as part of a Conditional Use Permit

G. ALL OTHER DEVELOPMENT STANDARDS

The development standards contained in Articles 11 through 16 of this Chapter also apply to this Section. In the event of any conflict between the requirements contained in Articles 11 through 16 and the requirements of this Section, the requirements of this Section supersede.

Section 4. Deletion and Replacement text for Burbank Municipal Code (BMC) 10-1-1609: Residentially Adjacent Drive-Throughs. Subsection 10-1-1609 is hereby deleted in its entirety

Section 5. Severability. If any provision of this Ordinance or its application is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, sections, or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end each phrase, section, sentence, or word is declared to be severable.

Section 6. Environmental Assessment This Ordinance is not subject to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") pursuant to Section 15061(b)(3) of the State CEQA Guidelines because it has no potential for causing a significant effect on the environment. There are no pending applications for restaurants with a drive-through that would be affected by this Zone Text Amendment or that would otherwise be forced to relocated to other locations. Furthermore, pursuant to Section 15378(a)(1), this ZTA is not considered a "project" subject to the requirements of CEQA. This project involves the adoption of amendments to the BMC, including new objective standards intended to protect residential neighborhoods and commercial corridors from potential negative impacts associated with drive-through restaurants and other drive-through establishments.

Section 7. Effective Date This Ordinance shall become effective at 12:01 a.m. on the thirty-first (31st) day after the date of adoption.

PASSED AND ADOPTED this ____ day of _____, 2023.

Konstantine Anthony
Mayor of the City of Burbank

Attest:

Approved as to Form
Office of the City Attorney

Kimberley Clark, City Clerk

Lisa Kurihara
Senior Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Kimberley Clark, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. _____ was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California within 14 days following its __, 2023 adoption.

Kimberley Clark, City Clerk

