



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** June 7, 2022

**TO:** Mayor and Councilmembers

**FROM:** Ariel Calonne, City Attorney

**SUBJECT:** Continued Public Hearing To Consider Declaration Of A Public Nuisance Resulting From The Operation Of A Drive-Through At The Restaurant Located At 3707 State Street

**RECOMMENDATION:** That Council:

- A. Receive a staff report on the status of negotiated remedial recommendations and adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Approving a Traffic Circulation Agreement to Remedy Nuisance Related Issues Arising from the Operation of a Drive-Through Facility Located at 3707 State Street or, in the alternative;
- B. Introduce and subsequently adopt, by reading of title only, an Ordinance of the Council of the City of Santa Barbara Declaring the Existence and Ordering the Abatement of a Public Nuisance Resulting from the Manner of Operation of a Drive-Through Facility Located at 3707 State Street.

### **DISCUSSION:**

At the March 1, 2022, nuisance public hearing, Council directed four specific actions:

1. Continue the public hearing to June 7, 2022 following supplemental notice to the property owners.
2. Direct the City Attorney to prepare a draft ordinance with nuisance findings based upon Council's comments and the evidence presented, and return with the ordinance on June 7th.

3. Staff are to work with Chick-fil-A and the property owners to develop potential remedies and return with remedial recommendations on June 7th.

4. On or before March 11, Chick-fil-A is to send a letter with proposed interim traffic control actions and report monthly on traffic monitoring information.

On March 15, 2022, the City Attorney provided written notice of the continued June 7, 2022 public hearing, as required by law, to the property owners who claimed they did not receive formal notice previously.

Staff and Chick-fil-A have worked diligently and, in the opinion of the City Attorney, successfully, on a series of remedial actions. Staff will be recommending Council approval of a proposed Traffic Circulation Agreement. This Agreement effects what has thus far proven to be a successful set of proactive measures which eliminate the chronic nuisance activity that staff described during the March 1, 2022 public hearing. In addition, the Traffic Circulation Agreement preserves the City's ability to take action in the future should further action prove necessary and factually supportable. For these reasons, the City Attorney advises Council to support staff's proposed resolution of the nuisance conditions.

In the alternative, as directed, the City Attorney has prepared a nuisance abatement ordinance for Council consideration. Given the significant improvement in traffic congestion since implementation of the March 11 interim measures, and the above-referenced Agreement proposed to Council by staff and Chick-fil-A, the City Attorney does not advise adoption of the ordinance.

Should Council wish to enact a nuisance abatement ordinance despite our recommendations, the City Attorney advises that the public nuisance abatement order be limited to the traffic mitigation measures described in the staff Traffic Circulation Agreement. The accompanying Ordinance reflects these measures as follows:

- Operator shall provide an attendant to monitor the drive-through lane. The attendant will be responsible for monitoring traffic and implementing traffic control measures when vehicles are stacked beyond the end of the "Team Member Zones" (as shown on the site plan submitted with the Site Improvement Application ("Site Plan"), which represents approximately 22\* cars in the drive-through stack to facilitate the safe and efficient movement of traffic within the parking lot area. (\*This number is based on the Site Plan. If the approved Site Plan contains a

drive-through stack with a different number, then this provision will need to be adjusted accordingly.)

- The Operator will provide sufficient team members to conduct remote ordering and direct additional vehicles to the on-site parking area, during peak hours or whenever required to ensure that queues do not interfere with on-site circulation or spill onto the public sidewalk or street.
- The Tenant shall provide monthly traffic monitoring reports prepared by a professional traffic engineer to the City's Public Works Director for a period of 12 months following the completion of construction of the improvements contemplated by the Site Improvement Application.
- Twice a year, the Operator shall have the restaurant operations and drive-through assessed by the Tenant corporate team in an effort to further streamline operations. The Operator shall take all reasonable measures to implement any recommendations of the Tenant drive-through team to further enhance traffic flow at the Property.
- The Tenant and the Operator shall work together to seek additional off-site parking to be provided at no charge for the Operator's team members.
- The Tenant and the Operator shall take all reasonable measures to prevent truck deliveries at the restaurant during peak hours of operation, including, for example, communicating with vendors and delivery services to avoid deliveries during peak hours of operation.
- The Tenant and the Operator shall take all reasonable measures to prevent trucks or armored cars visiting the Property from parking on State Street, including, for example, posting signage as required by the Public Works Director to notify such trucks or armored cars that parking on State Street shall not be allowed and including such provisions in service contracts with vendors where feasible.
- The Operator shall install and maintain permanent onsite signage to discourage Chick-fil-A customers from offsite parking. If the Operator or the Tenant secures offsite parking for customers, this signage may be removed. Such off-site parking arrangements will require approval of a recorded agreement approved by the Community Development Director in accordance with Santa Barbara Municipal Code Chapter 20.260.

**PREPARED BY:** Ariel Calonne, City Attorney

**SUBMITTED BY:** Ariel Calonne, City Attorney

**APPROVED BY:** City Administrator's Office