



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 1, 2022

TO: Mayor and Councilmembers

FROM: Community Development Department,
Streets Operations & Infrastructure Management Division, Public
Works Department

SUBJECT: 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. Conduct a public hearing to consider a declaration of a public nuisance resulting from the operation of a drive-through at the restaurant located at 3707 State Street and to order the abatement of the nuisance by cessation of use of the drive-through facility; and
- B. Based on the evidence presented at the public hearing, direct the City Attorney to prepare appropriate findings and an ordinance for Council to introduce and subsequently adopt declaring a public nuisance and ordering the abatement thereof.

DISCUSSION:

In 1979, the City of Santa Barbara (City) enacted an ordinance prohibiting new or expanded drive-through facilities. Today, the ban is codified as Municipal Code section 30.185.160. The drive-through restaurant at 3707 State Street was initially permitted in 1978 as a Burger King, and is considered a legal, non-conforming use under the City's Zoning Ordinance. The facility has operated as a Chick-fil-A restaurant since 2013. Over the last several years, the City has received numerous public comments regarding the vehicle queue at 3707 State Street. The public comments discuss traffic safety issues, auto collisions, cyclist safety issues, and several requests to remedy the issues caused by the drive-through facility at 3707 State Street. Staff has compiled these comments, which are included as an attachment to this CAR.

The City Principal Transportation Engineer analyzed the situation and issued an engineering report on January 11, 2022, concluding that the operation of the drive-through causes persistent back-ups of traffic on State Street. See Attachment 1.

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Previous attempts to informally remedy the situation have been unsuccessful. It is unlawful to stop in the travel lane, and there are traffic control signs posted that advise motorists not to stop in the travel lane, but Chick-fil-A customers routinely ignore those signs.

In early 2019, the Public Works Department and City Attorney's Office actively began considering enforcement options to address the ongoing issue of vehicle backups onto State Street caused by the drive-through. City staff attempted to work with Chick-fil-A representatives regarding a solution. In January and March of 2020, the Public Works Director sent letters to Chick-fil-A directing the abatement of the traffic nuisance. (See Attachment 2.) Chick-fil-A has tried various methods of reducing the traffic back-ups by reconfiguring its on-site queuing and stationing mobile order takers, but none have appeared to work, and traffic back-ups on State Street persist. Posting a police officer and citation of motorists is not an effective remedy, creating its own problems and requiring a substantial expenditure of public resources. See Attachment 3.

Chick-fil-A submitted a development application to the Community Development Department in January of 2021 to expand its drive-through from one lane to two lanes to increase the on-site capacity. Chick-fil-A's proposal would widen the driveway and make minor modifications to the drive-through configuration to formalize a two-lane configuration for the drive-through. The application requires Architectural Board of Review (ABR) approval, but ABR review is limited to aesthetic design considerations only. Chick-fil-A has operated the drive-through with two lanes for several years by manually taking orders. Despite the two-lane drive-through operations, the queuing persists. Staff has reviewed Chick-fil-A's proposal for functionality and believes that widening the driveway and creating a permanent two-lane drive-through will not eliminate queuing. See the Attachment 4, a memorandum from the Community Development Department and City Traffic Engineer.

Based on the complaints and the City's observations of the Chick-Fil-A drive-through, there is a chronic adverse traffic impact caused by the operation of the drive-through restaurant facility. Each time a queue forms on State Street, the eastbound number two traffic lane is blocked leaving only one lane available. The queuing increases the risk of collisions, particular rear-end collisions and side-swipe collisions. Queued vehicles persistently block the sidewalk and bike lanes, creating a danger to pedestrians and cyclists. The queuing of vehicles routinely blocks access to adjacent businesses, which affects customer and delivery access to these businesses. The operation of the drive-through facility has caused queued vehicles to block the sidewalk in front of 3707 State Street. Not only does blocking the sidewalk present a danger to all pedestrians, but people with disabilities are more likely to have difficulty maneuvering around the vehicles blocking the sidewalk. As a result of the drive-through facility's queue, vehicles also block the disabled parking spots at 3707 State Street. The Santa Barbara Metropolitan Transit District (MTD) has experienced service difficulties in the area surrounding 3707 State Street. When there is a queue of vehicles backing onto State Street, buses must change lanes to bypass the queue. It is more difficult for buses to bypass the queue in comparison to passenger vehicles, which increases the risk of collision. The queue of vehicles may

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also cause delays to transit vehicles such as the MTD, resulting in service disruptions. See Attachment 5, a letter from Santa Barbara MTD.

The City's Traffic Engineer, Police Chief, and Community Development Director have evaluated the situation and believe that the persistent traffic back-up onto State Street is a public nuisance and that the nuisance is caused by the operation of a drive-through at the Chick-fil-A restaurant.

Council adopted Resolution No. 22-008 on February 1, 2022, setting the time and date of the public hearing. Notice of the hearing has been given as directed by Resolution No. 22-008. The public hearing will be held according to the procedures applicable to quasi-judicial hearings set forth in Section 4.14 of the City Council Procedures. Under the proposed resolution, the order of proceeding will be generally as follows:

- Staff presentation – 30 minutes;
- Owner/operator presentation – 30 minutes;
- Public comment – 2 or 3 minutes per speaker;
- Owner/operator response/closing – 20 minutes;
- Staff response/closing – 20 minutes; and
- Council deliberations and decision.

After the public hearing, Council may determine whether a public nuisance exists, and if so, may order the appropriate abatement thereof, including but not limited to, alteration of operations or revocation of nonconforming use status for the drive-through facilities, operations, and uses at 3707 State Street.

For these reasons, staff recommends Council declare that a public nuisance exists at 3707 State Street and direct abatement of the nuisance by cessation of use of the drive-through facility and direct the City Attorney to prepare an ordinance containing appropriate findings declaring the nuisance, ordering its abatement, and authorizing the City Attorney to take appropriate action to enforce the ordinance.

- ATTACHMENTS:**
1. Traffic Engineer Report
 2. Letters to Chick-Fil-A Directing Abatement of Traffic Nuisance
 3. Santa Barbara Police Chick-Fil-A Traffic Recommendation
 4. Proposed Site Plan Analysis
 5. Letter from Santa Barbara MTD
 6. Compiled emails and other communications

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Elias Isaacson, Community Development Director

APPROVED BY: City Administrator's Office