



MILPITAS PLANNING COMMISSION AGENDA REPORT

NEW BUSINESS

Meeting Date: May 25, 2011

PRESENTATION: Mobile Food Trucks

SUMMARY: A report to the Planning Commission on mobile food trucks trend and how they are regulated by municipalities.

RECOMMENDATION: Staff recommends that the Planning Commission: Note, Receipt, and File

PROJECT DATA:

Zoning Designation: N/A

Related Permits: N/A

PLANNER: Cindy Hom, Assistant Planner

ATTACHMENTS: Photos Exhibit
Planning Commission Resolution NO. 392
MMC III-17.04
MMC V-100-10.11

BACKGROUND

Mobile food trucks have been around for decades. They are primarily found in populated metropolitan area such as downtowns near employment centers; entertainment and recreation venues such as sporting events, carnivals, fairs, and special parks, as well as college campus, and construction sites. Typically, mobile food trucks are open for a limited amount of time on private property or on the public right-of-way. Mobile food trucks fall under the same use category as vender carts, like the hot dog or ice cream hand push carts, and the ice cream trucks that go through residential neighborhoods.

CURRENT FOOD TRUCK TREND

More recently, mobile food trucks have become increasing popular and more mainstream with the help of social media like Facebook and Twitter. The use of Facebook and Twitter has enable vendors to build and maintain a customer fan base because it allows vendors to advertise their locations. Many vendors typically change their locations or have multiple locations daily and sometimes from hour to hour. The factors that have contributed to their popularity is the recent downturn in the economy, growing public interest in food culture, high capital and operating

costs for brick & mortar buildings, the demand for affordable, high quality food, and the general values, attitudes, and lifestyles of today's generation.

The mobile food truck trend can be seen as a way to enliven the urban environment. They also can provide a synergy with retail local businesses and shops by providing an attraction and foot traffic that the center may not have under normal and typical conditions.

A prime example of this synergy are the recent San Jose Eats events held in the City of San Jose. The first event was held on April 2, 2011 in conjunction with San Jose Made, a local artist craft faire. It was estimated that 10,000 people attended the event held at the historic Fallon House parking lot. Local business including restaurants on San Pedro Square actually benefitted from the event because many of the attendants who did not want to bare the long lines and hour long wait, patron the neighboring restaurants. It also provided the foot traffic desired for the craft faire.

The second event was held on May 7, 2011 at the Peralta Adobe which provided a better site layout, access, seating areas, and cueing of lines for the food trucks. Although it was not as crowded as the first event, it was still a success in that the experience was pleasurable and well organized.

However, in some cities, the potential concerns and impacts associated with food trucks have prompted more regulations. Many cities like San Monica, Los Angeles, Sacramento, San Francisco, and New York have implemented more stringent restrictions to address concerns that include but are not limited to under cutting competition with standard brick and mortar restaurants by offering lower prices, taking up customer parking, obstructing entryways, and leaving trash and debris behind.

In general, cities have specific local regulations for these types of businesses. Although the regulations vary from city to city, most regulations limit the number of trucks, size, location, and duration. The permitting process also varies from city to city. Most cities require a vendor permit, some require conditional use permits, however, all mobile food trucks must obtain a business license issuance and like standard brick and mortar restaurants, mobile food trucks also require Health Department permit and must pass annual Health Department inspections. Another requirement of mobile food trucks is to have a primary and secondary commissary. A commissary is a location where the trucks are stored, cleaned, and restocked. Waste and wastewater are also disposed and discharged at the commissary.

MOBILE FOOD TRUCKS IN MILPITAS

Based on a search of active business licenses, there are seven business licenses that have been issued by the city for mobile food trucks. Most of the food trucks in Milpitas operate during the lunch hours at construction sites, industrial companies, and more recently at the former Mervyn's parking lot during evening hours. Staff has not received any complaints about the operation of food trucks within the City. Photos of the food trucks in Milpitas are shown in Attachment A.

The City of the Milpitas requires a No-Fixed Business License to operate in the city. Municipal Codes that pertain to mobile food trucks are Milpitas Municipal Code (MMC) III-1-17.04

(Transient Vendors) which requires a business license to operate within the city limits and MMC V-100-10.11 (Unlawful Parking – Peddlers, Vendors) which restricts vendors from parking or stopping on the public right-of-way. The city also has a Planning Commission Resolution No. 392 that was established in 1983 when transient vendors required a condition use permit and were subject to the standard conditions set forth in the resolution. Since transient vendors/mobile food trucks currently do not require a conditional use permit, the Planning Commission may consider options to rescind or significantly modify the resolution.

Furthermore, any future food events like the San Jose Eats would be subject the Special Event Permit process and would be reviewed to ensure public health and safety, adequate pedestrian and vehicle circulation and accessibility, crowd and traffic control, and compliance with all local regulations. Photos of the San Jose Eats special event are shown in Attachment A.

Attachments:

- A. Photo Exhibit
- B. Planning Commission Resolution NO. 392
- C. MMC III-17.04
- D. MMC V-100-10.11

Mogo's, - Mervyn's Parking Lot, Milpitas, CA



Mogo's - 888 Tasman Dr. Parking Lot, Milpitas, CA



San Jose Eats Special Event (5/7/11), Peralta Adobe, San Jose, CA.







RESOLUTION NO. 392PLANNING COMMISSION CONSIDERATIONS AND CONCERNS
PERTAINING TO TRANSIENT VENDORS
LOCATED ON PRIVATE PROPERTY

WHEREAS, THE CITY PLANNING COMMISSION feels that aesthetic and safety concerns for the operation of transient mobile vendor businesses must be reviewed for the general welfare of the community;

WHEREAS, "STANDARD" CONDITIONS have consistently been required by the Planning Commission for all commercial and industrial developments;

WHEREAS, THE CITY PLANNING COMMISSION desires to aid transient vendors to address the needs and concerns of the community in their Use Permit applications and to aid the Commission and staff in reducing the number of Special Conditions;

THEREFORE, IT IS RESOLVED that the Planning Commission may require the following special conditions of all Use Permit applications for transient vendors:

1. The operation of the business shall not be conducted in a manner that requires customers to stop or park vehicles in the public right-of-way (on-site paved parking area may be required).
2. The location of the business and related signs shall not be conducted within a 40-foot triangle on any street corner, measured from face-of-curbs. (Signs must conform with the adopted Sign Ordinance, 32 Sq. Ft. maximum.)
3. The operation of the business shall not be conducted in such a manner that pedestrian traffic is impeded in the use of the public sidewalk or motor vehicle traffic is impeded in its normal and customary use of streets, driveways and parking areas.
4. At least one (1) trash receptacle shall be provided and maintained.
5. A cash deposit, in an amount of \$1,000, to assure that the occupied site is left in a state of cleanliness and good order, shall be posted prior to issuance of a business license.
6. A valid business license shall be obtained and posted in accordance with City requirements.
7. No loudspeakers, amplifiers or other noise generating equipment shall be permitted in conjunction with the business operation.
8. All requirements of the Santa Clara County Environmental Health Services shall be met and proof provided to the City prior to obtaining a business license.
9. The business shall be located at least twenty-five (25) feet from any driveway (measured at property line), or fire hydrant.
10. Operation of business shall be located at least one hundred (100) feet from any bus stop sign or bus stop.
11. Prior to issuance of a business license, written verification shall be submitted to Planning Division staff that applicant has obtained and shall maintain public liability, property damage, and products liability insurance to the approval of the City Attorney.
12. Written permission for use of the site shall be obtained from the property owner and submitted to the Planning Division at the time of submitting the Use Permit application.
13. No transient vendor business will be located closer than 500 feet to an existing business presently selling good or services of a similar type or manner.

14. No business will be located within 500 feet of a residential zoning district or school.
15. In the event a proposed use is located in an existing shopping center, the applicant shall provide self-addressed stamped envelopes for each tenant at the time of submitting an application.
16. No trailers, vehicles, containers, signs or other equipment used for the operation of the vendor business shall remain on the site when the business is not operating.

PASSED AND ADOPTED this 21st day April, 1983, by the following vote:

AYES: Hamer, Herriott, Leonard, Lightfoot and Payton

NOES: None

ABSENT: Gill and Rabe

ABSTAIN: None

APPROVED:

Warryn S. Payton
Chairman

ATTEST:

Jean V. Conolly
Secretary

CR/6769/3/788L

ATTACHMENT C

III-1-17.04- Transient Vendors

Every individual who does not have a fixed place of business within a commercial or industrial zoned area in the City of Milpitas and who goes in or upon any private residence in the City of Milpitas not having been requested or invited to do so by an owner or occupant of said premises for the purpose of soliciting orders for or selling, renting or delivering or agreeing to sell, rent or deliver any goods, wares or merchandise, or soliciting orders for or providing or agreeing to provide any work, labor or services shall pay an annual license tax of One Hundred Dollars.

17.04-1 The license tax imposed under this Subsection III-1-17.04 is a license tax upon individuals, and each individual is subject to the provisions of this Subsection III-1-17.04, regardless of whether he is an employee of another.

17.04-2 As used herein, "individual" shall not include salesmen or agents of wholesale businesses or firms who solicit orders from licensed retail dealers for resale, or who solicit orders from licensed manufacturers for manufacturing purposes, or to bidders for public works or supplies.

(Ord. 76.8, 12/15/70)

ATTACHMENT D

V-100-10.11- Unlawful Parking—Peddlers, Vendors

10.11-1 Except as otherwise provided in this section, no person shall stand or park any vehicle, wagon or push-cart from which goods, wares, merchandise, fruits, vegetables or foodstuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunch wagon or eating car or vehicle, on any portion of any street within this City, except that such vehicles, wagons or push-carts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten (10) minutes at any one place. The provisions of this Subsection shall not apply to persons delivering such articles upon order of, or by agreement with a customer from a store or other fixed place of business or distribution.

10.11-2 Deleted by Ord. 43.139.

10.11-3 Deleted by Ord. 43.139.

10.11-4 Deleted by Ord. 43.139.

10.11-5 It shall be unlawful to sell, display, solicit or offer for sale, barter or exchange or otherwise peddle or vend any goods, wares or merchandise (including, but not limited to wearing apparel, flowers or foodstuffs) from the sidewalk, curb or street (and whether on foot or from any vehicle, wagon or cart, or otherwise) at any of the following locations within the City of Milpitas:

- .1 Abbott Avenue from Spence Avenue to Calaveras Boulevard
- .2 Abel Street (Entire)
- .3 Calaveras Boulevard/SR-237 from and including the western City Limit to Coyote Creek to and including its intersection with Carnegie Drive
- .4 Capitol Avenue from Abel Street to the south City Limits
- .5 Dixon Landing Road (Entire)
- .6 Dixon Road from Milpitas Boulevard to Arizona Avenue
- .7 Jacklin Road from Milpitas Boulevard to and including Park Victoria Drive
- .8 Landess Avenue those portions within the City of Milpitas
- .9 Main Street from Curtis Avenue to south City Limits
- .10 McCarthy Boulevard (Entire)
- .11 Milpitas Boulevard (Entire)
- .12 Montague Expressway (Entire)
- .13 Park Victoria Drive from Ayer Street to south City Limits
- .14 Serra Way (Entire)

10.11-6 Application

The provisions of V-100-10.11-5 shall be applicable to any vehicle, wagon or push-cart, to which V-100-10.11-1 applies.

(Ord. 43.139, 7/16/85; Ord. 43.132, 1/19/84; Ord. 43.64 (part), 12/2/69; Ord. 43 (part), 6/7/55)