



OFFICE OF THE CITY ATTORNEY

ROCKARD J. DELGADILLO

CITY ATTORNEY

REPORT NO. R 0 8 - 0 2 4 3

JUL 15 2008

REPORT RE:

**DRAFT ORDINANCE TO ESTABLISH TEMPORARY REGULATIONS FOR THE
ISSUANCE OF ALL PERMITS RELATED TO THE ESTABLISHMENT OF NEW FAST
FOOD RESTAURANTS ON COMMERCIAL OR INDUSTRIAL ZONED PROPERTIES
LOCATED ON STREETS DESIGNATED AS MAJOR HIGHWAY CLASS I, MAJOR
HIGHWAY CLASS II AND SECONDARY HIGHWAY IN THE WEST ADAMS-
BALDWIN HILLS-LEIMERT COMMUNITY PLAN AREA AND PORTIONS OF THE
SOUTH LOS ANGELES AND SOUTHEAST LOS ANGELES
COMMUNITY PLAN AREA**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 07-1658
CPC File No. 2007-3827-ICO

Honorable Members:

We are transmitting to you for your action, approved as to form and legality, a final draft ordinance pertaining to the above-described subject matter pursuant to the December 11, 2007, request of your Planning and Land Use Management Committee.

Summary of Ordinance Provisions

The proposed ordinance would prohibit for one-year the establishment of new stand-alone fast food restaurants (projects) in the West Adams-Baldwin Hills-Leimert Community Plan area and portions of the South Los Angeles and Southeast Los Angeles Community Plan area. The proposed ordinance would allow the Director of City Planning to approve a project permit if the applicant demonstrates: 1) that the project will not result in the proliferation and undue concentration of fast food



establishments within a radius of 750 feet; 2) that the project will be compatible with the surrounding area; 3) the height, bulk and massing of the project is compatible with the surrounding area; 4) that parking for the project is located at the rear behind the commercial frontage and screened from view from the public street; 5) that a minimum of 7% of the total area of a surface parking lot is landscaped with plant materials, such as trees, and the project has a coordinated landscape plan that includes abundant plant materials and features; 6) that the project does not have a Drive-through Window and that the number of driveways is minimized and located on side streets where feasible; and 7) that the project has an adequate trash disposal plan to control litter including, sufficient trash receptacles on-site and frequent trash collection and disposal and that trash enclosures shall be enclosed by a minimum of five-foot high decorative masonry walls and shall be located where there will be minimum negative impact, physical or visual, on pedestrians, the flow of traffic, or adjacent uses.

CEQA Findings

Regarding a finding pursuant to the California Environmental Quality Act of 1970 (CEQA), the Department of City Planning has determined that the adoption of the ordinance is categorically exempt from the requirements of CEQA, pursuant to Article 19, Section 15308, Class 8, of the State CEQA Guidelines, the adoption of ordinances which involve procedures for the protection and enhancement of the environment. The draft ordinance would impose a temporary discretionary approval process for the establishment of new stand-alone fast food restaurants within the ordinance's boundary. This approval process would assure that further adverse impacts to the environmental conditions of South LA's commercial corridors are prevented. If the City Council concurs, it should adopt this finding prior to or concurrent with its action on the ordinance.

Charter Findings

Pursuant to Charter Section 559, the Director has approved the draft ordinance on behalf of the City Planning Commission and recommended that the City Council adopt it. Should the City Council adopt this ordinance, it may comply with the provisions of Charter Section 558 by either adopting the findings of the Director as set forth in her report dated July 3, 2008, or by making its own findings.

Council Rule 38 Referral

A copy of the final draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety. The Department has indicated that it has no objections to the draft ordinance.

If you have any questions, you may contact Assistant City Attorney Sharon Siedorf Cardenas at (213) 978-8235. She or another member of this office will be available when you consider this matter to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By

A handwritten signature in black ink, appearing to read "D. Michaelson", written over a horizontal line.

DAVID MICHAELSON
Chief Assistant City Attorney

DM/SSC:pj
Transmittal

ORDINANCE NO. _____

An ordinance imposing interim regulations on the issuance of all permits related to the establishment of new fast food restaurants on commercial or industrial zoned properties located on streets designated as Major Highway Class I, Major Highway Class II and Secondary Highway in the West Adams-Baldwin Hills-Leimert Community Plan area and portions of the South Los Angeles and Southeast Los Angeles Community Plan areas.

WHEREAS, on June 19, 2007, the Planning and Land Use Management Committee of the City Council instructed the Department of City Planning to initiate proceedings to establish an interim control ordinance to prohibit the establishment of new fast food restaurants in South Los Angeles that will be effective for 365 days, or until the adoption of appropriate regulatory controls; and

WHEREAS, the proposed Interim Control Ordinance (ICO) is located within three Community Plan areas including a portion of the South Los Angeles Community Plan adopted on October 26, 1979 and revised on March 22, 2000; a portion of the Southeast Los Angeles Community Plan adopted on March 21, 1974 and revised on March 22, 2000; and the West Adams-Baldwin Hills-Leimert Community Plan adopted on January 7, 1980 and updated on May 6, 1998; and

WHEREAS, goals and objectives listed in the Community Plans address the need to: provide a strong and competitive commercial sector which best serves the needs of the community, attract uses which strengthen the economic base and expand market opportunities for existing and new businesses, enhance the appearance of commercial districts, and identify and address the over-concentration of uses which are detrimental to the health and welfare of the people of the community; and

WHEREAS, there is an over-concentration of fast food restaurants in the South Los Angeles region, as shown in recent reports including a Los Angeles Times report (September 2007) which found that 45% of the 900 restaurants in South L.A. are fast-food outlets with minimal seating, compared with 16% of 2,200 restaurants in the west side of the City; and

WHEREAS, fast food restaurants typically have a standardized design that is out of context with the neighborhood, in addition to excessive signage, little or no landscaping, large expanses of surface parking, drive-through windows, multiple driveways, parking lots fronting the street and large setbacks, all of which impact pedestrian activity, traffic, neighborhood aesthetics and the environment through heat release into the air and air pollution in the area; and

WHEREAS, the South Los Angeles and the Southeast Los Angeles Community Planning areas are currently developing a package of incentives to attract dining establishments, grocery stores and other options to enhance the quality of life for community stakeholders; and

WHEREAS, the proliferation of fast food establishments throughout the South Los Angeles area may create adverse built environment and quality of life impacts and without the use of appropriate planning and policy measures this type of development could continue to undermine the goals and objectives of the South Los Angeles Community Plans; and

WHEREAS, as part of the New Community Plan Program currently underway for the three Plan areas, additional regulatory controls will be implemented to address the over-concentration of certain uses, upgrade the physical condition of the area by requiring good urban design and elevate the quality of life for the community.

NOW THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. **DEFINITIONS.** The following words or phrases, whenever used in this ordinance, shall be construed as defined in this section. Words and phrases not defined here shall be construed as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC).

DRIVE-THROUGH WINDOW. An opening in the wall of a Fast Food Restaurant that is used to dispense food or beverages for consumption on or off the premises to an individual in a vehicle.

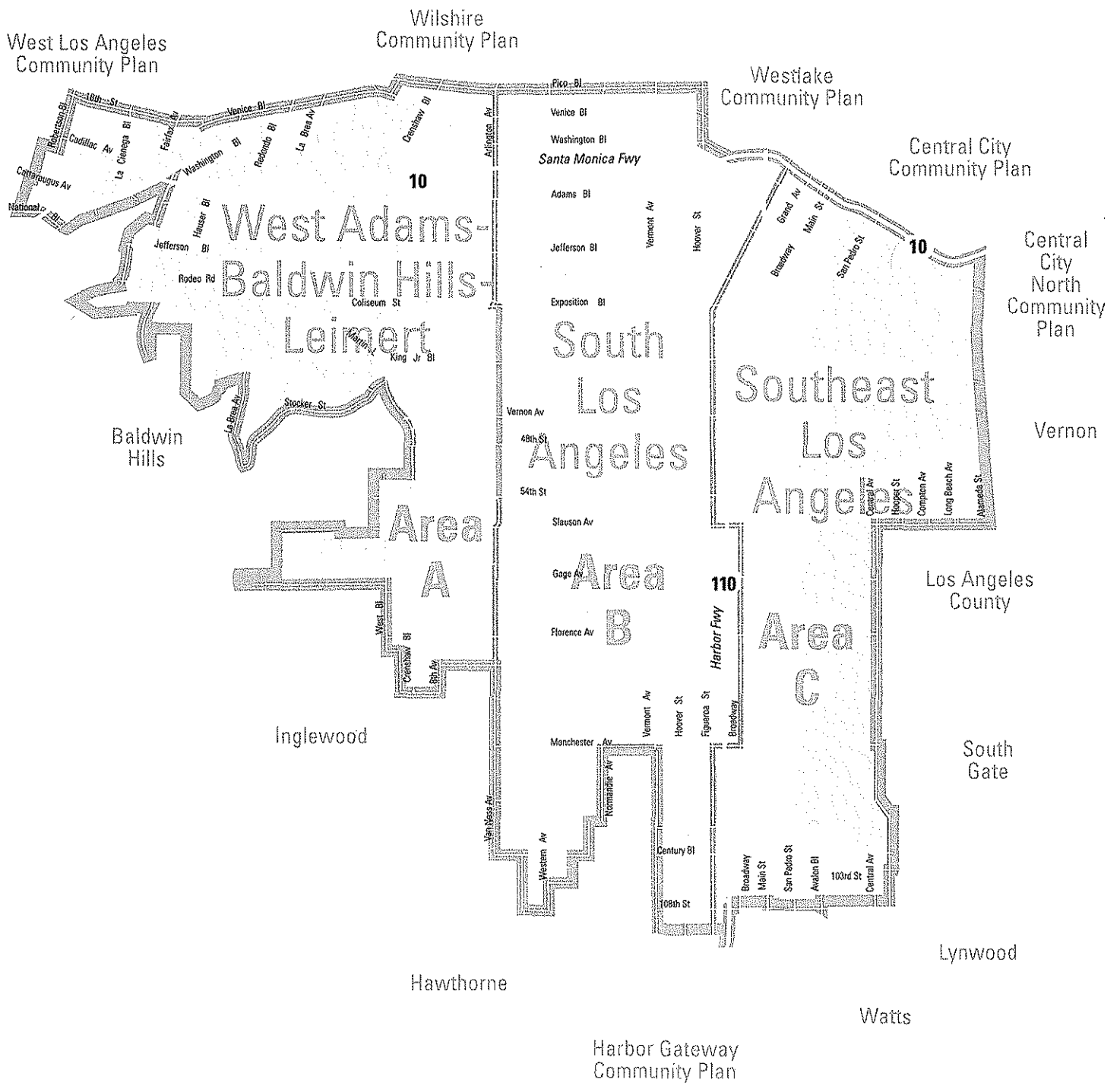
PROJECT. The change of use, construction, erection, addition to or alteration of any building or structure on commercial or industrial zoned properties located in whole or in part on streets designated as Major Highway Class I, Major Highway Class II and Secondary Highway that result in the establishment of a new stand-alone Fast Food Restaurant, or the expansion of an existing Fast Food Restaurant's floor area, addition of seating and/or the addition of a Drive-through Window. A project does not include construction that consists solely of interior remodeling, interior rehabilitation, minor exterior repair work, or routine maintenance which does not increase the floor area.

FAST FOOD RESTAURANT. Any establishment which dispenses food for consumption on or off the premises, and which has the following characteristics: a limited menu, items prepared in advance or prepared or heated quickly, no table orders, and food served in disposable wrapping or containers.

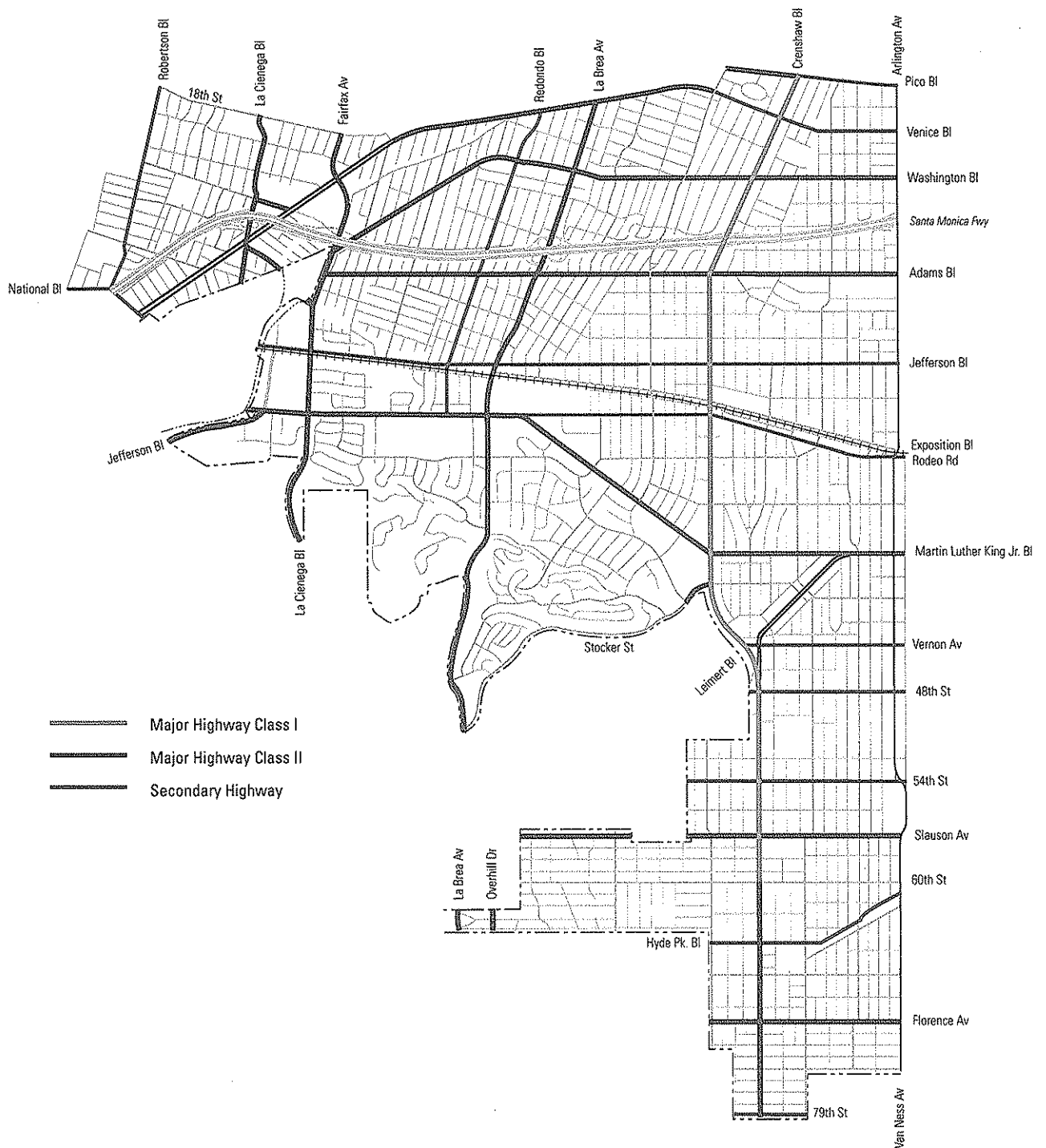
Sec. 2. **PROHIBITION.** Notwithstanding any provision of the Los Angeles Municipal Code to the contrary, for a period of 365 days from the effective date of this ordinance, or until the adoption of appropriate permanent regulatory controls that further regulate the establishment of Fast Food Restaurants within the area shown on the maps identified in Section 3 of this ordinance becomes effective, whichever occurs first:

No permits, including but not limited to building, grading, foundation and use permits, shall be issued for any Project.

Sec. 3. **INTERIM CONTROL BOUNDARY.** The provisions of this ordinance shall apply to any Project located in whole or in part within the area shown on the attached maps:



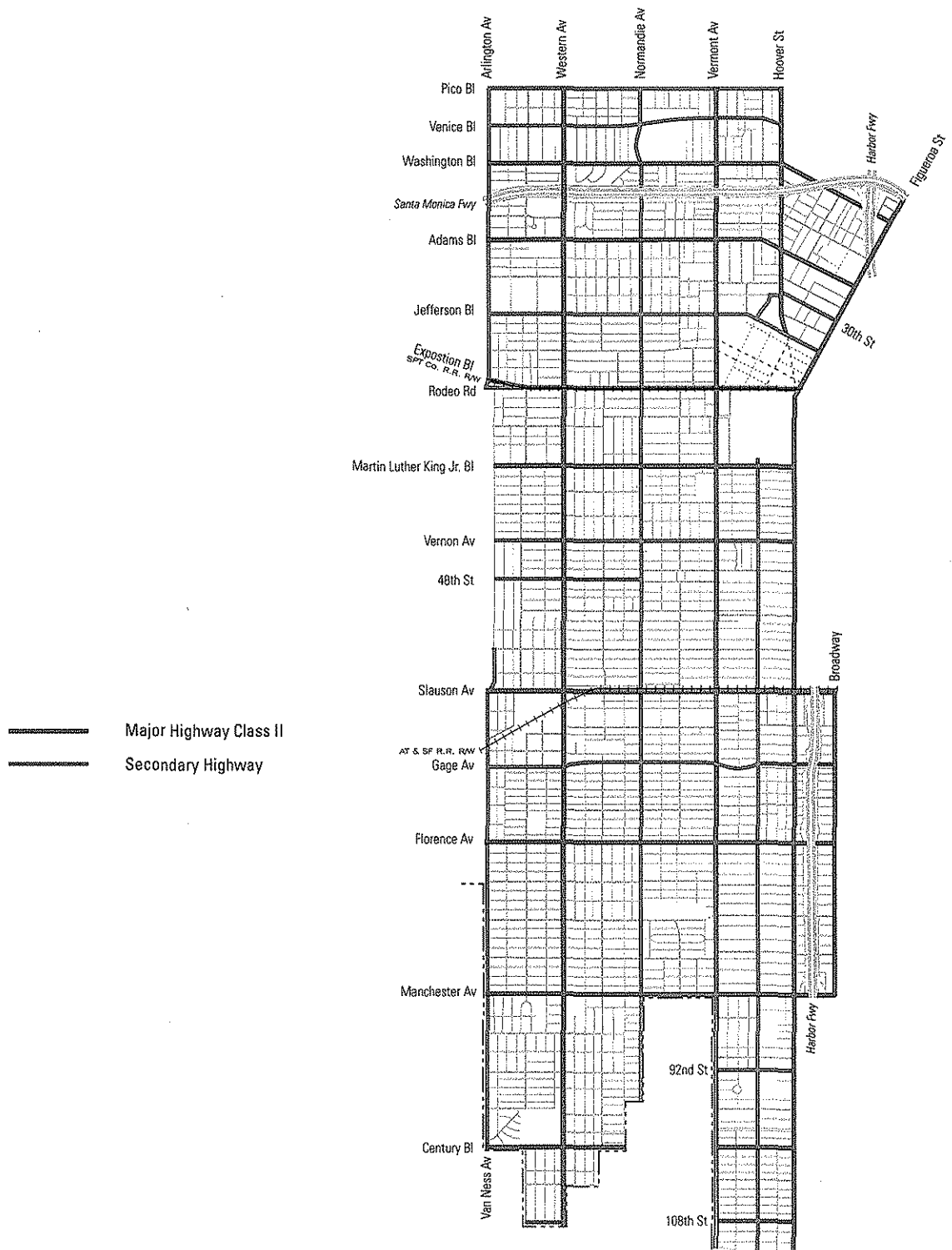
Proposed Fast Food Interim Control Ordinance (ICO) Boundary



Fast Food ICO Area A

West Adams • Baldwin Hills • Leimert Community

Not to Scale



Fast Food ICO Area B South Los Angeles Community

Sec. 4. **EXCEPTIONS.**

A. The prohibition specified in Section 2 of this ordinance shall not apply to any construction for which a building permit is required as follows:

1. To comply with an order issued by the Department of Building and Safety to repair, remove, or demolish an unsafe building or a substandard condition.
2. To rebuild a building or structure damaged as a result of fire, earthquake, or other natural disaster, provided that the development is not prohibited by any provision of the LAMC.
3. To perform construction consisting solely of tenant improvements, such as interior remodeling, interior rehabilitation or repair work of an existing building which does not increase the floor area and does not involve a change of use.

B. The prohibition specified in Section 2 of this ordinance shall not apply to any building permit within the proposed area:

1. If architectural and structural plans sufficient for a complete plan check and all Project fees or guarantees for the payment of fees for the Project were accepted by the Department of Building and Safety on or before the adoption of this ordinance by City Council.
2. This exception shall only apply if no subsequent changes are made to those plans which increase or decrease the height, floor area, or occupant load by more than five percent or change the use, or if any changes violate the Zoning Code regulations in force on the date that the plan check fee was paid.
3. However, any building permit issued pursuant to this subsection shall become invalid if construction was not commenced within 180 days of issuance of the building permit. Construction has commenced if construction pursuant to a valid building permit has progressed to the point that one of the inspections required by LAMC Section 91.108.5 has been made and the work for which the inspection was called has been approved by the Department of Building and Safety.

Sec. 5. **PROJECT PERMIT.** The prohibition specified in Section 2 of this ordinance shall not apply to any Project that obtains a Project Permit pursuant to the provisions of this section.

A. **Authority.** A Project Permit for Projects located in whole or in part within the area identified in Section 3 of this ordinance may be approved if the Director of Planning (Director) finds that the approval of the Project is in conformity with the public necessity, convenience, general welfare and good zoning practice and that the action will be in substantial conformance with the various elements and objectives of the General Plan.

In order to approve a Project Permit the Director shall make the following additional findings:

1. That the Project will not result in the proliferation and undue concentration of Fast Food Restaurants within a radius of 750 feet of the proposed Project;
2. That the Project provides a building wall that is continuous along the street frontage and located along the sidewalk;
3. That the height, bulk and massing of the Project is compatible with the surrounding area;
4. That parking for the Project is located at the rear behind the commercial frontage and screened from view from the public street;
5. That a minimum of 7% of the total area of a surface parking lot is landscaped with plant materials, such as trees, and the Project has a coordinated landscape plan that includes abundant plant materials and features;
6. That the Project does not have a Drive-through Window and that the number of driveways is minimized and located on side streets where feasible; and
7. That the Project has an adequate trash disposal plan to control litter including, sufficient trash receptacles on-site and frequent trash collection and disposal and that trash enclosures shall be enclosed by a minimum of five-foot high decorative masonry walls and shall be located where there will be minimum negative impact, physical or visual, on pedestrians, the flow of traffic, or adjacent uses.

B. Project Permit Review Process. A Project Permit application and an Environmental Assessment Form shall be filed with and acted on by the Director in accordance with the procedures set forth in Section 11.5.7 C of the LAMC. Applicants shall submit a 750-foot radius map identifying all existing Fast Food Restaurants to the satisfaction of the Director. The Director shall have the authority to interpret the definition of "Fast Food Restaurant" when the application of the term to a specific establishment is not clear or in dispute.

Sec. 6. EXTENSION OF REGULATIONS. The City Council may by resolution, extend the provisions of this ordinance for two additional six month periods, so long as the Council makes the following findings: That appropriate City agencies and officials are exercising due diligence to assure that the permanent regulations are being expeditiously processed.

Sec. 7. HARDSHIP EXEMPTIONS. The City Council, acting in its legislative capacity and by resolution, may grant exemptions from any or all of the provisions of this ordinance in cases of extreme hardship duly established to the satisfaction of the

City Council. An application for hardship exemption shall be filed with the City Clerk on forms provided by the Department of City Planning.

Sec. 8. **SEVERABILITY.** If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provision, and, to this end, the provisions of this ordinance are declared to be severable.

Sec. 9. **APPLICABILITY OF THE ZONING CODE.** The regulations of this ordinance are in addition to those set forth in the planning and zoning provisions of Chapter 1 of the LAMC and any other ordinances adopted by the City Council, and do not contain any rights not otherwise granted under the provisions and procedures contained in that Chapter or any other ordinances.

Sec. 10. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

KAREN E. KALFAYAN, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By 
SHARON SIEDORF CARDENAS
Assistant City Attorney

Date JUL 11 2008

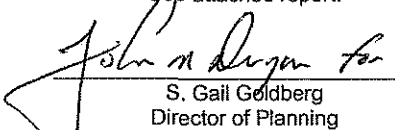
File No(s). CF No. 07-1658; CPC-2007-3827-ICO

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Pursuant to Charter Section 559, I approve this ordinance on behalf of the City Planning Commission and recommend that it be adopted

July 3, 2008

See attached report.


S. Gail Goldberg
Director of Planning